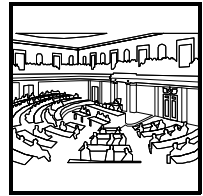


# 1999 Indiana Election Legislation Summary

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This document summarizes the election-related legislation that passed the Indiana General Assembly and became law in 1999. Bills and joint resolutions may be obtained by contacting the Legislative Information Center at 200 W Washington St Ste 230, Indianapolis, Indiana 46204-2731; (317) 232-9856, or by downloading documents from the Access Indiana homepage: [www.state.in.us/legislative](http://www.state.in.us/legislative).

The following eight bills were enacted by the 1999 Regular Session of the Indiana General Assembly to amend Title 3 (the Indiana Election Code): Public Law 1-1999 (SEA 40), technical correction legislation; Public Law 38-1999 (HEA 1079), omnibus election legislation, mostly consisting of provisions from the 1998 session; Public Law 83-1999 (HEA 1138), legislation concerning the placement of school board candidates on general election ballots; Public Law 95-1999 (HEA 1440), legislation concerning the Marion County township small claims court judges; Public Law 144-1999 (SEA 175), legislation concerning election deadlines in certain small towns; Public Law 176-1999 (SEA 109), omnibus election legislation; Public Law 202-1999 (HEA 1313), legislation concerning the use of candidate names and nicknames on the ballot; Public Law 254-1999 (SEA 274), legislation concerning candidates for city court judge and town court judge.

Several other bills were enacted by the 1999 Session which did not amend the Indiana Election Code, but concerned elected officials and local governments. These bills included: Public Law 26-1999 (SEA 28), legislation which concerned residency requirements for certain court officers; Public Law 34-1999 (HEA 1024), legislation concerning the authority of town clerk-treasurers to break tie votes on the town council; Public Law 144-1999 (SEA 167), legislation concerning municipal annexation and disannexation; Public Law 196-1999 (HEA 1148), legislation creating and abolishing certain local courts; Public Law 209-1999 (HEA 1513), legislation concerning third class cities and the impact of a city's reclassification upon officeholders serving when the reclassification takes effect; Public Law 217-1999 (HEA 1608), legislation concerning municipal annexation and disannexation; Public Law 251-1999 (SEA 204), legislation concerning geographic information systems and state legislative districts; and Public Law 274-1999 (HEJR 13), a proposed state constitutional amendment concerning criminal appeals that must be placed on the 2000 general election ballot.

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## **ABSENTEE BALLOT VOTING**

### **Absentee Ballot Applications and Power of Attorney:**

If an individual applies for an absentee ballot as the voter's attorney in fact, a copy of the power of attorney must be attached to the absentee ballot application (rather than attached to the security envelope under former law). (IC 3-11-4-2 and IC 3-11-4-21 (HEA 1079, SEC. 37 and 40), eff. Apr. 23, 1999.)

### **Absentee Ballot Security Envelope Affidavit:**

Beginning July 1, 1999, the affidavit completed by the voter on the security envelope returned to the county election board must include a statement that the voter personally marked the ballots, enclosed them in the envelope, and sealed the envelope (with the assistance of any individual whose name is listed on the envelope). The affidavit must also state that the voter affirms under penalty of perjury that the voter was not coerced or improperly influenced by any individual assisting the voter (or any other person) in a manner prohibited by state or federal law to cast the ballot for or against a candidate, political party, or public question. (IC 3-11-4-21 (HEA 1079, SEC. 40), eff. Apr. 23, 1999; SEA 109, SEC. 142, eff. May 10, 1999.)

### **Lake County Absentee Ballot Confined Voter Application Deadlines:**

A confined voter or a voter caring for a confined person who mails or hand delivers an application for an absentee ballot in Lake County, and who requests that the absentee ballot be *mailed* to the voter, must ensure that the application is received by the Lake County Board of Elections and Registration no later than eight days before election day (rather than by 10 p.m. on the fourth day before election day under former law).

A confined voter or a voter caring for a confined person who mails or hand delivers an application for absentee ballot in Lake County, and who requests that the absentee ballot be *delivered to the voter by a traveling board*, must ensure that the application is received by the Lake County Board of Elections and Registration no later than noon on the day before election day (rather than by 10 p.m. on the fourth day before election day under former law). (IC 3-11-4-3 (HEA 1079, SEC. 38), eff. Apr. 23, 1999.)

### **Marion County Absentee Ballot Confined Voter Application Deadlines:**

A confined voter or a voter caring for a confined person who transmits an absentee ballot application by facsimile transmission to the Marion County Election Board must ensure that the application is received by the County Election Board no later than 10 p.m. on the fifth day before election day. (IC 3-11-4-3 (HEA 1079, SEC. 38), eff. Apr. 23, 1999.)

### **Processing Absentee Ballots:**

A precinct election board may not count an absentee ballot if the inspector finds that the ballot has not been endorsed by the two members of the traveling board, the two members of the absentee board in the circuit court clerk's office, or the two appointed members of the county election board or their appointed representative. (Former law did not refer to ballots lacking an endorsement by a traveling board that processed the absentee ballot.)

A precinct election board may not count an absentee ballot if the inspector finds that the ballot envelope contains more than one ballot of any kind *for the same office or public question*. (IC 3-11-10-17 (HEA 1079, SEC. 45), eff. Apr. 23, 1999.)

### **Absentee Ballots Cast by Disabled Voters:**

If a voter with disabilities is unable to make a signature on the absentee ballot application or on the absentee ballot secrecy envelope that corresponds to the voter's signature in the county voter registration office, the voter may request that the voter's signature or mark be attested to by: (1) the members of the traveling absentee board; (2) a member of the voter's household; or (3) the person holding the voter's power of attorney. If the absentee ballot security envelope contains this attestation of the voter's signature, the inspector may determine that the voter's signature on the security envelope corresponds with the voter's signature in the county voter registration records, and accept the absentee ballot. (IC 3-11-10-17 (HEA 1079, SEC. 45), eff. Apr. 23, 1999.)

A voter with disabilities who is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope must vote before a traveling absentee board *if the voter requests the ballot be delivered to an address in Indiana*. (IC 3-11-10-24 (HEA 1079, SEC. 45), eff. Apr. 23, 1999.)

### **Central Count of Absentee Ballots Procedures:**

A team of absentee ballot counters may not count an absentee ballot if the inspector finds that the ballot has not been endorsed by the two members of the traveling board, the two members of the absentee board in the circuit court clerk's office, or the two appointed members of the county election board or their appointed representative. (Former law merely referred to an "insufficient" affidavit and did not refer to ballots lacking the bipartisan endorsements.) (IC 3-11.5-4-13 (HEA 1079, SEC. 53), eff. Apr. 23, 1999.)

The first cousin of a candidate may serve as a central count absentee voter board member, ballot counter, or courier, whether or not the candidate is unopposed. (IC 3-11.5-4-22 (HEA 1079, SEC. 54), eff. Apr. 23, 1999.)

No later than noon ten days before absentee voting begins, the county election board shall notify the county chairmen of both major political parties of the county to appoint absentee voter boards, teams of absentee ballot counters, and absentee couriers. The county chairmen shall make written recommendations for these appointments no later than noon three days before absentee ballot voting begins. (IC 3-11.5-4-23 (HEA 1079, SEC. 55), eff. Apr. 23, 1999.)

A county election board, by unanimous consent of the board's membership, may appoint a voter of the county to serve as the absentee ballot courier (rather than appointing a bipartisan team of two individuals to serve as courier.) (IC 3-11.5-4-22 (SEA 109, SEC. 92), eff. Apr. 23, 1999 [retroactive].)

A state or local law enforcement officer may serve as an absentee ballot courier, upon nomination by one or both major party county chairs. A police officer may wear identifying insignia or part of the officer's official uniform while serving as an absentee ballot courier, and may serve as an absentee ballot courier while on duty. (IC 3-6-6-36 (SEA 109, SEC. 18), eff. July 1, 1999; IC 3-14-1-6 (SEA 109, SEC. 117), eff. May 10, 1999.)

Absentee ballot counters are entitled to receive a *per diem* in an amount set by the board of county commissioners or the Mayor of Indianapolis (rather than a sum not to exceed \$50 under former law).

Absentee ballot couriers assigned to deliver absentee certifications to precincts on election day are entitled to receive a *per diem* in an amount set by the board of county commissioners or the Mayor of Indianapolis (rather than a sum not to exceed \$50 under former law), plus a sum for mileage established by the county council or city-county council. (IC 3-11.5-7-2 (HEA 1079, SEC. 56), eff. Apr. 23, 1999.)

## **BALLOTS, FORMS, SUPPLIES, AND RECORD RETENTION**

### **Optical Scan Ballot Cards; Dual Security Stubs:**

An optical scan ballot card is no longer required to include two serially numbered security stubs, with one stub being detached by a precinct judge when the ballot is cast and offered to the voter. (IC 3-10-1-28.5, IC 3-11-13-18, IC 3-11-13-28.5, IC 3-11-13-33, IC 3-11-13-34, IC 3-11-13-34.5, and IC 3-11-13-35 (HEA 1079, SEC. 32 and 47-52; SEA 109, SEC. 58, 80, 86, and 90-91), eff. Jan. 1, 1999 [retroactive].)

### **Punch Cards and Optical Scan Ballot Cards; Election Year on Ballot Face:**

A punch card or an optical scan ballot card must have the year the election is to be conducted printed or stamped on the face of the ballot card. (IC 3-11-7-3.5 (SEA 109, SEC. 69), eff. July 1, 1999.)

### **Punch Cards and Optical Scan Ballot Cards; Fold Overs:**

The procedures for poll clerks to initial the "fold over" used in place of a secrecy envelope for some ballot cards have been clarified. The procedures for a voter to cast a ballot using the fold over envelope or to cast a write-in vote on the fold over have been clarified. (IC 3-11-13-28.7 (SEA 109, SEC. 87), eff. May 10, 1999; IC 3-11-13-33 (SEA 109, SEC. 90), eff. Jan. 1, 1999 [retroactive].)

### **Primary Election Ballots; Party Symbols:**

The party symbol is not required to be printed on the primary election ballot for that political party. The political party's name must continue to appear on these ballots. (IC 3-10-1-17 (SEA 109, SEC. 57), eff. July 1, 1999.)

### **Replacement Ballots for Candidate Vacancies:**

The election division or an election board may print new ballots (rather than use pasters as required under former law) to cover the name of a candidate who dies, withdraws, or is disqualified after ballots have been printed. (IC 3-11-3-29.5 (HEA 1079, SEC. 36), eff. Apr. 23, 1999.)

### **State and Presidential Paper Ballots:**

The election division shall deliver state and presidential paper ballots to a circuit court clerk or the chief deputy of the Lake County Board of Elections and Registration by using certified mail or any other means that includes a return receipt. (Former law required that each circuit court clerk pick up these ballots at a site designated by the election division, and that a messenger be sent by the election division to deliver these ballots if the clerk did not pick them up.) (IC 3-11-3-6, 3-11-3-7, and 3-11-3-9 (HEA 1079, SEC. 35 and 73), eff. Apr. 23, 1999.)

### **School Board Candidates on General Election Ballots:**

A county election board shall print general election ballots so that school board offices to be elected at the general election are placed after the county offices (and any township or town offices) printed on the ballot. (Former law provided that school board candidates elected at the general election were to be printed on the ballot after the public questions concerning judicial retention, the ratification of state constitutional amendments, and the election of any nonpartisan local judicial offices.) School board offices must be placed in a separate column on the ballot or ballot label if a county election board uses paper ballots, ballot cards, or electronic voting systems; school offices must be placed in a separate column of ballot labels if a county election board uses lever voting machines. If a county is using paper ballots or ballot cards, the ballot must also contain a statement reading "To vote for a candidate for this office, making a voting mark on or in the square to the left of the candidate's name." (IC 3-11-2-12.9, 3-11-2-13, and 3-11-2-14 (HEA 1138, SEC. 1-3), eff. Jan. 1, 2000.)

### **Special Write-in Ballots for Military and Overseas Voters:**

The special write-in ballot for military and overseas voters who will be outside of the United States on election day is no longer required to include a voter registration application form. (IC 3-11-4-12 (HEA 1079, SEC. 39), eff. Apr. 23, 1999.)

### **Optical Scan Ballot Cards; Demonstration Devices:**

The county election board is not required to provide a demonstration device to a precinct using an optical scan ballot card voting system. (IC 3-11-13-6 (SEA 109, SEC. 79), eff. May 10, 1999.)

### **Optical Scan Ballot Cards; Marking a Candidate's Name:**

A voter may cast a vote on a ballot card by punching a hole or marking the circle *beside* (rather than *before*) the name of the candidate. (IC 3-11-13-31.7 (SEA 109, SEC. 89), eff. May 10, 1999.)

### **Voter Registration Forms:**

Notwithstanding the general requirement that an individual or office may only use or accept the most recent version of a form prescribed by the Indiana election commission, the commission may permit an individual to use earlier commission approved version of the voter registration form if the commission determines that the existing stock of the registration form should be exhausted to prevent waste. A county voter registration office is permitted to accept a previous version of a voter registration form approved by the Indiana election commission after Nov. 1, 1994 and before January 1, 1999. (IC 3-5-4-8 (HEA 1079, SEC. 2, eff. Apr. 23, 1999; HEA 1079, SEC. 75, eff. July 1, 1997 [retroactive].))

### **Election Division Forms:**

If the Indiana election commission prescribes a form that is used primarily by the election division, the commission may order that the newly prescribed form be used by the election division immediately upon adoption of the order, and without any requirement to distribute copies of the form to other persons. (IC 3-5-4-8 (HEA 1079, SEC. 2), eff. Apr. 23, 1999.)

### **Election Material Retention:**

The election division and a circuit court clerk are not required to preserve certificates of nomination and petitions of nominations *in their offices* during the 22 month period after each election prescribed by state law for the retention of election material. Instead, these documents may be stored off-site in a secure facility. (IC 3-8-7-24 (HEA 1079, SEC. 30), eff. Apr. 23, 1999.)

## **CAMPAIGN FINANCE**

### **"Disclaimer" Requirements:**

The requirement under current law that campaign publications and certain other communications contain a "disclaimer" (*Paid for and authorized by...*) does not apply to: (1) bumper stickers, pins, buttons, pens, and similar small items upon which the disclaimer cannot be conveniently printed; (2) skywriting, water towers, wearing apparel, or other means of displaying an advertisement on which including the disclaimer would be impractical; (3) checks, receipts, and similar items of minimal value that do not contain a political message and are used for purely administrative purposes; (4) a communication by a political action committee organized and controlled by a corporation soliciting contributions to the PAC by stockholders, executives, or employees of the corporation or their families; (5) a communication by a political action committee organized and controlled by a labor organization soliciting contributions to the PAC by members or executive personnel of the labor organization and the families of those individuals; and (6) a direct mailing of 100 or less substantially similar pieces of mail.

A disclaimer is specifically required for a poster or yard sign expressly advocating the election or defeat of a clearly identified candidate.

A disclaimer must appear and be presented in a clear and conspicuous manner to give adequate notice of the identity of the persons who paid for the communication (and when required, whether the communication was authorized). A disclaimer which is difficult to read or placed in an easily overlooked location does not comply with this statutory requirement.

If a communication would require a disclaimer when distributed separately, the communication must contain the disclaimer when distributed as part of a package of materials.

Unless a communication (such as a billboard, for example) has only one face, the disclaimer is not required to appear on the front or cover page of the communication if the disclaimer appears within the communication.

If a communication is a solicitation directed to the general public by a political committee that is not a candidate's committee, the disclaimer must clearly state the name of the person who paid for the communication, for example: "*Paid for by the Little Committee for Good Government PAC*" or "*Paid for by the Federalist Party Indiana Senate Legislative Caucus Committee*"

If a communication is made by a regular party committee consisting of: (1) printed slate card, sample ballot, or other printed listing of three or more candidates for public office at an election; (2) campaign materials, such as handbills, posters, yard signs, or newspapers in connection with political party volunteer activities; or (3) materials distributed by volunteers as part of the party's voter registration or get-out-the-vote efforts; the communication must clearly state the name of the person who paid for the communication, but is not required to state that the communication was authorized by any candidate or committee. For example: "*Paid for by the Garden Party State Committee.*" (IC 3-9-3-2.5 (HEA 1079, SEC. 31), eff. Apr. 23, 1999.)

The disclaimer requirement prescribed by Indiana law does not apply to a communication expressly advocating the election or defeat of a clearly identified candidate if the communication is made in a medium regulated by federal law to the extent that federal law regulates the appearance, content, or placement of the communication in the medium. Some examples of communications exempted from the disclaimer requirements would include communications made on television, radio, the Internet, or by e-mail expressly advocating the election of a candidate for state or local office (IC 3-9-3-2.5 (SEA 109, SEC. 42), eff. Apr. 23, 1999 [retroactive].)

### **Campaign Finance Report Filings and Disclosure:**

The election division shall mail each candidate required to file a report the proper forms and a notice to file at least twenty-one days before the report is due. (The former law requiring the election division to also send the forms and notice to a candidate committee's treasurer has been repealed.) (IC 3-9-4-14 (SEA 109, SEC. 44), eff. May 10, 1999.)

The reporting periods and filing deadlines for each type of committee have been clarified.

A report must be completed, current and dated, as of the following dates:

- (1) For a candidate's committee, 25 days before the nomination date; 25 days before the general, municipal, or special election; and the annual report filed in January of the following year.
- (2) For a regular party committee, 25 days before a primary election; 25 days before a general, municipal, or special election; and the annual report filed in March of the following year.
- (3) For a legislative caucus committee, 25 days before a primary election conducted in an even numbered year; 25 days before a general election conducted in an even numbered year; and the annual report filed in January of each year.
- (4) For a political action committee, 25 days before a primary election; 25 days before a general, municipal, or special election; and the annual report filed in January of each year. (IC 3-9-5-6 (SEA 109, SEC. 46), eff. Jan. 1, 1998 [retroactive]; IC 3-9-5-21 (SEA 109, SEC. 134, eff. May 10, 1999.)

Reports transmitted by mail must be filed with the election division or county election board not later than noon seven days after the date of the report. (The former law permitting reports to be postmarked not later than seven days after the date of the report has been repealed.) (IC 3-9-5-7 (SEA 109, SEC. 47), eff. May 10, 1999.)

A candidate for nomination to office at a state convention who becomes a candidate less than 25 days before the nomination date for the candidates chosen at the convention is required to file the candidate's first report not later than noon 20 days after the nomination date for the convention. The reporting period for this report begins on the date the individual became a candidate and ends on the day following the adjournment of the convention. (IC 3-9-5-8 (SEA 109, SEC. 48), eff. May 10, 1999.)

A candidate who is nominated by petition is not required to file a campaign finance report before the deadline for filing certified petitions (August 2, 1999, for example). The reporting period for the candidate's first report begins on the date the individual became a candidate and ends 14 days after the deadline for filing certified petitions. As a result, the candidate's first report must be filed no later than noon 21 days after the deadline for filing certified petitions. (IC 3-9-5-8.2 (SEA 109, SEC. 49), eff. May 10, 1999.)

A candidate who files a declaration of intent to be a write-in candidate is not required to file a campaign finance report before the deadline for filing the declaration (September 13, 1999, for example). The reporting period for the candidate's first report begins on the date the individual became a candidate and ends 14 days after the deadline for the declaration. As a result, the candidate's first report must be filed no later than noon 21 days after the deadline for filing a declaration of intent to be a write-in candidate. (IC 3-9-5-8.4 (SEA 109, SEC. 50), eff. May 10, 1999.)

A candidate selected to fill an "early" ballot vacancy occurring more than 30 days before the general or municipal election is not required to file a report before the candidate's certificate of selection is filed. The reporting period for the candidate's first report begins on the date the individual became a candidate and ends 14 days after the certificate of selection is filed. As a result, the candidate's first report must be filed no later than noon 21 days after the certificate of selection is filed. (IC 3-9-5-8.5 (SEA 109, SEC. 51), eff. May 10, 1999.)

A candidate selected to fill a "late" ballot vacancy occurring 30 days or less before the general or municipal election is not required to file a report before the general or municipal election (other than any supplemental large contribution report required by law). The reporting period for the candidate's first report begins on the date the individual became a candidate and ends December 31 following the election. As a result, the candidate's first report must be filed at the same time that the annual report for all candidates is due the following January. (IC 3-9-5-8.5 (SEA 109, SEC. 51), eff. May 10, 1999.)

A candidate whose name does not appear on the ballot at any time during a year and who is not a write-in candidate during that year is not required to file campaign finance reports until the annual report due the following January. (IC 3-9-5-16 (SEA 109, SEC. 53), eff. Jan. 1, 1999 [retroactive].)

A campaign finance report submitted on disk (an "electronic submission") by a candidate for state office or state legislative office must be in a format previously approved by the Indiana election commission which permits the election division to print out a hard copy of the report when the committee makes the submission. "Filing" of the report occurs under the Campaign Finance Act when the election division records the date and time of the printout on the hardcopy of the report. If a discrepancy exists between the text of an electronic submission and a printed copy of the report, the text of the printed copy prevails until the committee files an amendment to the report.

The commission may authorize the election division to accept an electronic submission of a report from other candidates and other types of committees. (IC 3-9-4-4 (SEA 109, SEC. 43), eff. Jan. 1, 1999 [retroactive].)

A campaign finance report may be submitted by electronic mail if the election division or county election board has the ability to receive electronic mail and print out a hard copy of the report immediately upon receipt of the electronic mail. "Filing" of the report occurs under the Campaign Finance Act when the hard copy is printed out and the election division or county election board records the date and time of the printout on the hardcopy of the report. If a discrepancy exists between the text of the electronic mail and a printed copy of the report, the text of the printed copy prevails until the committee files an amendment to the report. (IC 3-9-5-7 (SEA 109, SEC. 47), eff. May 10, 1999.)

Reports transmitted by electronic mail must be *filed* with the election division or county election board not later than noon seven days after the date of the report. (The former law referred to the deadline for these reports to be "*received by*" the division or board.) (IC 3-9-5-7 (SEA 109, SEC. 47), eff. May 10, 1999.)

The election division or a county election board is not required to accept a campaign finance report sent by facsimile transmission unless the Indiana election commission or the county election board has approved a policy permitting a campaign finance report or statement to be submitted by facsimile transmission. (IC 3-9-5-7 (SEA 109, SEC. 47), eff. May 10, 1999.)

A campaign finance report for a committee must disclose a contributor's occupation if the contributor is an individual who made contributions of at least \$1,000 to the committee. (IC 3-9-5-14 (SEA 109, SEC. 52), eff. Jan. 1, 1998 [retroactive].)

The campaign finance report for a legislative caucus committee must disclose the full name and address of a contributor if the contributor makes an aggregate contribution to the committee of more than \$100 in a calendar year. The campaign finance report for a legislative caucus committee must disclose the full name and address of each person to whom an expenditure was made if the expenditures to the person exceeded \$100 in the aggregate in a calendar year. (IC 3-9-5-14 (SEA 109, SEC. 52), eff. Jan. 1, 1998 [retroactive].)

The treasurer of a candidate's committee must report a "large contribution" of \$1,000 or more received by the candidate, the candidate's committee, or the treasurer during the period beginning 25 days before the election (the end of the pre-election reporting period) and ending 48 hours before the election. The treasurer must file the report with the election division or a county election board not later than 48 hours after the contribution is received. The report may be filed by facsimile transmission and must contain the following: (1) the name and address of the person making the contribution; (2) the occupation of any individual making the contribution; (3) the amount of the contribution; (4) the date and time the contribution was received. (The former law requiring all candidates to file a supplemental large contribution report at noon on the Thursday preceding the election, whether or not the candidate received any large contribution, has been repealed.) (IC 3-9-5-20 and 3-9-5-20.1 (SEA 109, SEC. 54 and 134), eff. May 10, 1999.)

Beginning January 1, 2000, the election division shall develop and maintain an expenditure coding system consisting of not more than ten codes to account for campaign finance expenditures by committee. No later than Oct. 1, 1999, the election division shall provide the legislative council with a list of the proposed expenditure codes, including an explanation of the kind of expenditure items which would have to be accounted for under each proposed code. This expenditure coding system must be used on reports filed with the election division or a county election board beginning January 1, 2000. (The former law referring to a "cross-indexing" system for campaign finance reports has been repealed.) (IC 3-9-4-4 and P.L. 3-1997, SEC. 485 (SEA 109, SEC. 43 and 138), eff. Jan. 1, 1999 [retroactive]; SEA 109, SEC. 139, eff. May 10, 1999.)

Beginning January 1, 2000, the election division shall: (1) provide training at no cost to candidates for statewide or state legislative office; and (2) suggest acceptable electronic formats and programs to enable these candidates to file campaign finance reports electronically. (P.L. 3-1997, SEC. 485 (SEA 109, SEC. 138), eff. Jan. 1, 1999 [retroactive].)

The election division computer database must make the reports including all or part of calendar years 1997 and 1998 available in searchable, digital form available on the Internet. (P.L. 3-1997, SEC. 473 (SEA 109, SEC. 135), eff. May 10, 1999.)

The election division computer database must contain information from supplemental large contribution reports filed by candidates. (IC 3-9-4-4 (SEA 109, SEC. 43), eff. Jan. 1, 1999 [retroactive].)

### **Campaign Finance Enforcement:**

The election division and a county election board must notify a committee of a delinquent report not later than thirty days after the date the report was required to be filed (rather than thirty days after each election, under former law). (IC 3-9-4-14 (SEA 109, SEC. 44), eff. May 10, 1999.)

A candidate who has a defective report or statement of organization can be relieved from liability for a civil penalty assessed regarding the report or statement by filing a report or amended report and paying any outstanding penalties before the deadline for filing the next report required by the candidate. If the candidate does not do so, and is elected to office, the auditor of state or the fiscal officer of the political subdivision served by the official may withhold the amount of the civil penalty from the official's salary. (Under former law, this procedure was only applicable to delinquent reports, not defective reports.) (IC 3-9-4-18 (SEA 109, SEC. 45), eff. May 10, 1999.)

#### **Disbanding Defunct Committees:**

The Indiana election commission or a county election board may disband certain defunct committees by administrative action. The commission has jurisdiction over a candidate's committee for a statewide or state legislative office, a legislative caucus committee, and a regular party committee or political action committee which has filed a statement or report with the election division. A county election board has jurisdiction over a candidate's committee for a local or school board office and a regular party committee or political action committee which has filed a statement or report with the county election board, but not with the election division.

Not later than the last Friday in January of each year, the election division and the county election board of each county shall review all campaign finance committee filings to determine if any committee: (1) has not filed any expenditure reports during the previous three years; (2) owes no debts other than civil penalties assessed for campaign finance violations, or debts by a candidate to the candidate's committee. The election division or county election board may then begin proceedings before the commission or board to dissolve any such committees.

The election division or county election board must notify the committee by certified mail sent to the last known address of the chairman and treasurer of the committee. If the Indiana election commission or county election board determines that: (1) there is no evidence that the committee is still functioning; (2) the prudent use of public resources makes further collection efforts wasteful or unjust; and (3) there is no evidence that dissolving the committee will impair any contract or impede the collection of a debt, then the commission or board may then issue an order dissolving the committee, and waiving any outstanding civil penalty imposed by the commission or board. The election division shall publish the commission's order in the *Indiana Register*. The county election board shall publish a legal notice in the usual manner stating that the county election board has disbanded the committee, but the legal notice is not required to contain the entire text of the board's order. An order dissolving a committee takes effect immediately upon adoption, unless otherwise specified in the order. (IC 3-9-1-12 (SEA 109, SEC. 38), eff. May 10, 1999)

#### **When a Contribution is Considered to be Made or Received by a Committee:**

A contribution is considered to be "made" for campaign finance reporting purposes during the calendar year in which a person relinquishes control over the contribution by: (1) depositing the contribution in the United States mail; or (2) transferring the contribution to any other person who has been directed to convey the contribution to the intended recipient. (IC 3-9-1-25.5 (SEA 109, SEC. 40), eff. May 10, 1999)

A contribution is considered to be "received" and "accepted" for campaign finance reporting purposes when any member of the committee has physical possession of the contribution and manifests an intent to keep the contribution by depositing the contribution (rather than returning the contribution). (IC 3-9-1-25 (SEA 109, SEC. 39), eff. May 10, 1999)

#### **Miscellaneous Reporting Requirements:**

The "nomination date" for a candidate, which determines when a candidate's committee is required to file certain reports, is defined as follows: (1) for candidates nominated by convention, the date the convention is scheduled to be called to order, according to the call for the convention issued by the political party; (2) for candidates selected to fill a ballot vacancy, the date the certificate of selection for the candidate is filed by the political party; (3) for candidates nominated by petition, the final date the petition of nomination is permitted to be filed with the election division or county election board; (4) for write-in candidates, the final date that the candidate's declaration of intent to be a write-in candidate is permitted to be filed. (IC 3-5-2-32.7 (SEA 109, SEC. 2), eff. May 10, 1999)

An "auxiliary party organization", which is exempt from filing campaign finance statements of organization or other reports, is defined as an organization affiliated with a political party, that proposes to influence an Indiana election, and: (1) did not have an annual budget of \$5,000 or more during either of the last two years; or (2) did not make a contribution of more than \$1,000 (rather than \$500 under former law) to another committee or a candidate. (IC 3-5-2-2.5 (SEA 109, SEC. 1), eff. Jan. 1, 1999 [retroactive].)

A "political action committee", if otherwise subject to the Campaign Finance Act, is required to file a statement of organization and other reports, *whether or not the PAC is affiliated with a political party*. (IC 3-5-2-37 (SEA 109, SEC. 3), eff. May 10, 1999.)

A political action committee in existence on July 1, 1997 which was reclassified as a legislative caucus committee is considered a political

action committee for all purposes before January 1, 1998. (SEA 109, SEC. 136), eff. July 1, 1997 [retroactive].)

An obsolete definition for "national party affiliate committee", which is not otherwise used in the Campaign Finance Act, has been repealed. A political action committee in existence on July 1, 1997 which was reclassified as a national party affiliate committee is considered a political action committee for all purposes. (IC 3-5-2-32.5 (SEA 109, SEC. 132 and 136), eff. July 1, 1997 [retroactive].)

During calendar year 1997, a treasurer of a committee is only required to keep the committee records specified by law before IC 3-9-1-23 was amended, effective July 1, 1997. During calendar year 1997, a contribution transferred to a treasurer of a committee is only required to include the information specified by law before IC 3-9-2-9 was amended, effective July 1, 1997. (SEA 109, SEC. 137), eff. July 1, 1997 [retroactive].)

The campaign finance statement of organization for a candidate's committee that identifies a specific office sought by the candidate is not required to contain a statement of the committee's purpose.

The statement of organization for a candidate's committee is not required to state the name of any political party whose entire ticket is supported by the candidate.

The statement of organization for a political action committee is required to state whether the PAC is supporting or opposing any public question. This statement is not required on any other committee's statement of organization. (IC 3-9-1-4 (SEA 109, SEC. 37), eff. May 10, 1999.)

#### **Certain State Employees Soliciting Contributions:**

An individual employed by certain state agencies may not solicit a contribution (former law contained an incorrect cross-reference to statutes which prohibit these employees from *making* a contribution) (IC 3-9-2-13 (SEA 109, SEC. 41), eff. May 10, 1999)

## **CANDIDATES AND CAMPAIGNING**

#### **Candidate Name Requirements:**

A candidate is only permitted to use certain "designations" for the form in which the candidate's legal name appears on the ballot.

To implement this requirement, a candidate's "designation" is defined as referring to the name, nickname, initial, abbreviation, or number used to identify the individual. However a designation may not be a title or degree, or imply a title or degree. A candidate's "name" refers to any of the following: (1) the candidate's given name; (2) the candidate's surname; and (3) the candidate's middle name.

To determine a candidate's "legal name" for ballot placement purposes, the candidate's legal name is the name shown on the candidate's birth certificate. If a candidate takes another name through a judicial proceeding or uses a name after marriage in the manner described below, then the most recent name used after marriage or taken in the judicial proceeding is considered the candidate's legal name. If a candidate changes the candidate's legal name after a candidate is nominated, the candidate shall (rather than may under current law) file a statement with the office where the candidate previously filed the declaration of candidacy or certificate of nomination setting forth: (1) the former legal name; (2) the current legal name; and (3) how the candidate's legal name was changed.

A candidate's legal name after marriage can be any one of the following: (1) the name appearing on the candidate's birth certificate (as in *Mary Jane Doe*, for example); (2) the name used by the candidate on the application for a marriage license, as in *John Smith*, for example); or (3) any combination of the names that the candidate or the candidate's spouse used as applicants for the marriage license, as in *Mary Jane Smith*, *Mary Doe Smith*, or *John Smith-Doe*, for example.)

Assuming as an example that a candidate in Clark County has the legal name of Jonathan Bradley King and also has a nickname:

The first designation used on the ballot may be any one of the following: (1) the candidate's legal given name (*Jonathan*); (2) the initial of the candidate's legal given name (*J.*); (3) the candidate's legal middle name (*Bradley*); (2) the initial of the candidate's legal middle name (*B.*); or (4) the candidate's nickname (*Loophole*).

The second designation used on the ballot may be any one of the following, without repeating any designation already used as the first designation: (1) the candidate's legal middle name (*Bradley*); (2) the initial of the candidate's legal middle name (*B.*); (3) the candidate's nickname (*Loophole*); or (4) the candidate's legal surname (*King*).



The third designation used on the ballot may be any one of the following, without repeating any designation already used as the first designation or the second designation: (1) the candidate's nickname (*Loophole*); or (2) the candidate's legal surname (*King*).

A candidate can use the candidate's legal surname *after* the third designation if the candidate did not use the legal surname as the second or third designation. A candidate can also use *Sr.*, *Jr.*, or a numerical designation such as *II* or *III* after the candidate's legal surname.

A nickname used by a candidate on the ballot must be: (1) the nickname by which the candidate is commonly known; (2) not exceed 20 characters; (3) not be or imply a title or degree; and (4) must appear in parenthesis.

When a candidate files a "candidacy document" (meaning, a declaration of candidacy, a consent to be nominated, a consent to become a candidate, a certificate of candidate selection or consent filed on behalf of the candidate, or a statement requesting a retention vote), the filing constitutes a request that the county voter registration office of the county where the candidate resides change the candidate's name on the voter registration record to match the name on the candidacy document. The election division or county election board must forward this request to the county voter registration office no later than seven days after receiving this request. A candidate in a presidential primary election, or a candidate for President of the United States or Vice-President of the United States is exempted from this procedure.

If a candidate uses a designation not permitted by law on the candidate's candidacy document, a registered voter of the election district the candidate seeks to represent may file a sworn statement with the Indiana election commission or county election board under IC 3-8-1-2. If the commission or county election board finds that a candidate has used a designation not permitted by law, the candidate is considered to have withdrawn the candidacy.

A candidate for election as precinct committeeman or state convention delegate is not required to have the candidate's name appear on the primary election ballot in the same form that the name appears on the candidate's voter registration record. (IC 3-10-1-14 (SEA 109, SEC. 56), eff. July 1, 1999; IC 3-5-7; 3-8-2-2.5; 3-8-2-7; 3-8-5-10.5; 3-8-5-13; 3-8-5-17; 3-8-6-5; 3-8-6-12; 3-8-6-17; 3-8-7-8; 3-8-7-10; 3-8-7-25.5; 3-10-1-14; 3-10-2-15; 3-10-6-12; 3-11-3-29; 3-13-1-10.5; 3-13-1-15; 3-13-1-16; 3-13-2-7; 3-13-2-8; 3-13-2-9; 33-2.1-2-6 (HEA 1313, SEC. 1-14, 16, and 19-26), eff. Jan. 1, 2000.)

#### **Candidate Name Changes:**

A candidate for nomination may change the candidate's name before nomination occurs. If the final date and hour has not passed for filing a declaration of candidacy, consent for nomination, or declaration of intent to be a write-in candidate, the candidate must file the change of name request on the form prescribed by the commission for filing the declaration or consent. (IC 3-8-7-25.5 (SEA 109, SEC. 36), eff. May 10, 1999.)

#### **Penalties for Coercion of a Candidate:**

A person who, for purposes of influencing a candidate: (1) seeks to enforce the payment of a debt by force or threat of force; (2) ejects or threatens to eject the candidate from the house the candidate occupies; (3) begins a criminal prosecution; or (4) damages the business or trade of the candidate, commits a Class D felony. (Former law penalized these acts when directed against a *voter*, but not against a candidate.) For the purposes of this statute, a "candidate" includes a person that an individual knows is considering becoming a candidate. (IC 3-14-3-18 (SEA 109, SEC. 118), eff. July 1, 1999.)

#### **Allen County Superior Court and Vanderburgh County Superior Court Judge Candidates:**

If an individual who filed a declaration of candidacy for judge in the Allen County Superior Court or the Vanderburgh County Superior Court ceases to be a candidate, the election division may accept the filing of additional declarations of candidacy for the seat not later than noon August 1. (IC 33-5-5.1-29 and 33-5-43.2-1 (SEA 109, SEC. 128-129), eff. May 10, 1999.)

#### **City Judge Candidates:**

Except for a city in St. Joseph County, an individual who files a declaration of candidacy for nomination in the primary as a Democratic Party or Republican Party candidate for city court judge must reside in the city when the declaration of candidacy is filed. Obsolete references to city court judges in Lake County and judges in city courts in third class cities have been repealed. (IC 3-8-1-1 and 3-8-1-1.5 (SEA 274, SEC. 1-2), eff. May 13, 1999; IC 3-8-1-28.5 (HEA 1079, SEC. 23), eff. Apr. 23, 1999.)

Except for a city in St. Joseph County, an individual who is nominated as a Libertarian Party candidate for city court judge must reside in the city when the certificate of nomination for convention candidates is filed. (IC 3-8-1-28.5 (HEA 1079, SEC. 23), eff. Apr. 23, 1999.)

Except for a city in St. Joseph County, an individual who is a write-in candidate for city court judge must reside in the city when filing the declaration of intent to be a write-in candidate. (IC 3-8-1-28.5 (HEA 1079, SEC. 23), eff. Apr. 23, 1999.)

For city in St. Joseph County, an individual who files a declaration of candidacy for nomination in the primary as a Democratic Party or Republican Party candidate for city court judge, is nominated as a Libertarian Party candidate for city court judge, or who files a petition of nomination as a candidate for city court judge must reside in a county in which the city is located when the declaration of candidacy, certificate of nomination, or petition of nomination is filed (and not necessarily within the city). Obsolete references to city court judges in Lake County and judges in city courts in third class cities have been repealed. (IC 3-8-1-1.5 (SEA 274, SEC. 2), eff. May 13, 1999.)

An individual who files as a candidate for city judge in a court where the person serving as judge must be admitted to the practice of law (currently Anderson city court, Carmel city court, a city court located in Lake County, Muncie city court, and Noblesville city court) must be admitted to the practice of law in Indiana before filing as a candidate. (IC 3-8-1-28.5 (SEA 109, SEC. 29), eff. Apr. 23, 1999 [retroactive]; (SEA 274), SEC. 3, eff. May 13, 1999.)

#### **Town Judge Candidates:**

An individual who files a declaration of candidacy for nomination in the primary as a Democratic Party or Republican Party candidate for town court judge, is nominated as a Libertarian Party candidate for town court judge, or who files a petition of nomination as a candidate for town court judge must reside in a county in which the town is located when the declaration of candidacy, certificate of nomination, or petition of nomination is filed (and not necessarily within the town). (IC 3-8-1-1.5 (SEA 274, SEC. 2), eff. May 13, 1999.)

An individual who files as a candidate for town judge in a court where the person serving as judge must be admitted to the practice of law (currently Brownsburg town court, a town court located in Lake County, and Plainfield town court) must be admitted to the practice of law in Indiana before filing as a candidate. (IC 3-8-1-29.5 (SEA 109, SEC. 30), eff. May 10, 1999; (SEA 274, SEC. 4).)

#### **Marion County Township Small Claims Court Judge Candidates:**

A candidate for Marion County township small claims court judge must either: (1) have resided in the township from which the candidate is elected (rather than in Marion County) for at least one year upon taking office; or (2) have been elected small claims court judge for the township before 1999. A candidate for this office must be admitted to the practice of law in Indiana upon filing as a candidate. (The former law permitting an individual who is not a member of the Indiana bar, but was serving as a justice of the peace on December 31, 1975, and had at least one year of experience as a justice of the peace before January 1, 1976, has been repealed.). Although an incumbent small claims court judge who is not an attorney on July 1, 1999 may serve the remainder of the judge's term, each candidate for small claims court judge in an election after June 30, 1999 must be an attorney admitted to practice law in Indiana upon filing as a candidate. (IC 3-8-1-30 (HEA 1440, SEC. 1), eff. Jan. 1, 2001; HEA 1440, SEC. 10, eff. July 1, 1999.)

A candidate for Marion County township small claims court judge must file a statement of economic interests with the Indiana Commission on Judicial Qualifications before filing a declaration of candidacy or a certificate of nomination. An obsolete reference to Marion County municipal court judges in this statute is repealed. (IC 33-2.1-8-1 and 33-2.1-8-7 (SEA 109, SEC. 126-127), eff. July 1, 1999.)

#### **Eligibility Challenges:**

A candidate's eligibility may not be challenged before the Indiana election commission, a county election board, or a town election board if: (1) the candidate's eligibility was challenged before the candidate was nominated; (2) the commission or board conducted a hearing on the required affidavit before the candidate was nominated; and (3) the challenge would be on substantially the same grounds as the previous challenge to the candidate. (IC 3-8-1-2 (SEA 109, SEC. 25), eff. Apr. 23, 1999 [retroactive].)

#### **Disqualified Candidates:**

An individual who would violate certain federal laws concerning political activity (the Hatch Act or the Little Hatch Act) by becoming or remaining a candidate is disqualified and may withdraw as a candidate, even after the usual deadline for withdrawals. (IC 3-8-1-5 (SEA 109, SEC. 26), eff. May 10, 1999.)

#### **Sore Loser Candidates:**

An individual who is a candidate for nomination at a state convention of a party and is defeated is not eligible to become a candidate for the same office in the next general election.

An individual who is a candidate for nomination at a county, city, or town convention of the Libertarian Party and is defeated is not eligible to become a candidate for the same office in the next general or municipal election. (IC 3-8-1-5.5 (HEA 1079, SEC. 22), eff. Apr. 23, 1999.)

An individual who is a candidate for nomination by a political party caucus to fill a ballot vacancy and is defeated is not eligible to become a candidate for the same office in the next general or municipal election. (IC 3-8-1-5.5 (SEA 109, SEC. 27), eff. Apr. 23, 1999 [retroactive].)

### **"Fusion" Candidates Prohibited:**

If an individual is nominated as a candidate for the same office by: (1) both convention and petition; (2) both primary election and petition; (3) both primary election and convention; (4) more than one petition; or (5) more than one convention, the individual's name may be placed on the ballot only once.

If a person is nominated by both convention and petition, the person appears on the ballot as a candidate nominated by convention unless the person files a statement, no later than the deadline for filing a petition of nomination, requesting that the person's name be placed on the ballot as a candidate nominated by petition. If a person is nominated by both primary election and petition (or both primary election and convention), the person appears on the ballot as a candidate nominated at the primary election unless the person files a statement, no later than the deadline for filing a petition of nomination, requesting that the person's name be placed on the ballot as a candidate nominated by petition or convention.

If a person is nominated by more than one petition, the person appears on the ballot as a candidate nominated by the first petition unless the person files a statement, no later than the deadline for filing a petition of nomination, requesting that the person's name be placed on the ballot as a candidate nominated by the subsequent petition. If a person is nominated by more than one convention, the person appears on the ballot as a candidate nominated by the first convention certificate of nomination to be filed unless the person files a statement, no later than the deadline for filing a petition of nomination, requesting that the person's name be placed on the ballot as a candidate nominated by a subsequent convention.

If an individual is nominated by a major political party to fill the party's early ballot vacancy, the individual is to be considered for purposes of the fusion statute to have been nominated in the same manner as the candidate whom the individual succeeded on the ballot (or if no candidate had been nominated in a primary or convention, then in the same manner as a candidate whom the party could have nominated for the office. If an individual is nominated by a major political party to fill a ballot vacancy occurring during the final thirty days before an election, the individual may not be placed on the ballot as a candidate of any other political party.

If an individual nominated as a candidate by more than one political party, or by at least one political party and also as an independent candidate, the individual must file a statement with the election division or circuit court clerk no later than noon August 1 before the election choosing to accept one of the nominations. If the candidate fails to file the statement, the election division or circuit court clerk shall make the election for the candidate, and must give preference to any nomination made by primary election and secondly to any nomination given by a convention. If a candidate is nominated by more than one convention or more than one petition, the election division or circuit court clerk must give preference to the first certificate of nomination by a convention or to the first petition of nomination for the candidate. (IC 3-8-7-20, IC 3-8-7-21, and IC 3-8-7-22 (HEA 1079, SEC. 27-29), eff. Apr. 23, 1999.)

### **Candidates Nominated by Petition:**

A candidate's consent to be nominated by petition (and any statement of economic interests required to be filed by the candidate) must be filed with the petition of nomination certified by the county voter registration office. The consent and economic interest statement are not required to be submitted to the county voter registration office *before* the petition is processed and certified by that office. (IC 3-8-6-10 and 3-8-6-12 (SEA 109, SEC. 32-33), eff. May 10, 1999.)

### **Write-in Candidates:**

The eligibility of a write-in candidate may be challenged before the Indiana election commission or a county or town election board in the same manner as candidates whose names appear on the ballot are challenged before those bodies. (IC 3-8-1-2 (HEA 1079, SEC. 21), eff. Apr. 23, 1999.)

### **Filling Candidate Vacancies on the General Election Ballot:**

Elected precinct committeemen and the vice-committeemen of elected committeemen are eligible to participate in a political party caucus to fill a ballot vacancy, regardless of when the ballot vacancy occurred. Appointed precinct committeemen are eligible to participate in a political party caucus to fill a ballot vacancy if the appointed precinct committeeman was serving as committeeman 30 days before the vacancy occurred. Appointed vice-committeemen of appointed precinct committeemen are eligible to participate in a political party caucus to fill a ballot vacancy if the appointed vice-committeeman was serving as vice-committeeman 30 days before the vacancy occurred. (The former law requiring continuous service by an appointed committeeman or vice-committeeman for thirty days before the vacancy occurred has been repealed.) (IC 3-13-1-10 (HEA 1079, SEC. 63), eff. Apr. 23, 1999; SEA 109 (SEC. 114), eff. Apr. 23, 1999 [retroactive].)

A candidate vacancy for an office on the general election ballot for which a declaration of candidacy must be filed with the secretary of state under IC 3-8-2-5 (federal offices, statewide offices, state legislative offices, judges of a circuit court, a county court, a probate court, a superior court, or a township small claims court, and prosecuting attorney) must be filled by a political party no later than noon 35 days after the primary election. (Former law permitted candidate vacancies for these offices to be filled by a political party no later than noon August 1).

A candidate vacancy existing for any office on the general election due to the withdrawal of a candidate *for any reason* must be filled no later than 30 days after the candidate's withdrawal is effective. (Former law only permitted candidate vacancies resulting from a candidate's withdrawal resulting from the candidate's *moving from the election district* to be filled within 30 days after the vacancy occurs.) (IC 3-13-1-7 (SEA 109, SEC. 113), eff. July 1, 1999.)

## **CERTIFICATION, CANVASSING, RECOUNTS, AND CONTESTS**

### **Verification of Petition Signatures:**

In determining whether a signature on a petition submitted to a county voter registration office "substantially conforms" with the voter's signature already on file in the office, the county voter registration office must certify the signature on the petition as genuine if the office determines that any lack of conformity may reasonably be attributed to the age, disability, or impairment of the voter. (IC 3-5-6-6 (HEA 1079, SEC. 3), eff. Apr. 23, 1999.)

An obsolete reference to the secretary of state determining the validity of the petition of nomination required for Democratic Party or Republican Party candidates to appear on the primary election ballot as candidates for United States Senate or governor has been repealed. (IC 3-8-2-9 (HEA 1079, SEC. 24), eff. Jan. 1, 1998 [retroactive].)

### **Amendments to Primary Election Legal Notices:**

If the election division forwards an amendment to the list of primary election candidates certified to a county election board, the county election board may file a copy of the amendment in its minutes instead of publishing an amended legal notice of the primary election setting forth the revised list of candidates. (IC 3-8-2-19 (HEA 1079, SEC. 25), eff. Apr. 23, 1999.)

### **Canvassing Ballot Card Votes:**

If a voter votes a straight party ticket for more than one political party on a ballot card, the ballot card voting system must consider the whole ballot void, except for any vote for a school board candidate or on a public question. (IC 3-11-7-9 (HEA 1079, SEC. 41), eff. Apr. 23, 1999.)

If a punch card ballot or an optical scan ballot card is not initialed by both poll clerks, the ballot is void. However, unless: (1) the ballot was cast by an absentee voter; or (2) there is evidence of fraud, tampering, or misconduct affecting the integrity of the ballot other than the failure of both poll clerks to initial the ballot, the ballot is to be counted in any recount or contest proceeding occurring after the election. (IC 3-11-13-28 and 3-11-13-30 (SEA 109, SEC. 85 and 88), eff. May 10, 1999.)

The former law which required that if the second duplicate serially numbered stub provided for a punch card ballot has been removed before the ballot is cast by the voter, the ballot must be marked void and not counted, has been repealed. (IC 3-11-13-34 and 3-11-13-34.5 (SEA 109, SEC. 134), eff. May 10, 1999.)

### **Certificates of Nomination for Candidates for United States and Governor:**

An obsolete provision concerning the certification of candidates nominated in the primary for election as United States Senator or Governor has been repealed. (This certification procedure is currently set forth in IC 3-8-7-2.) (IC 3-8-7-9 (HEA 1079, SEC. 73), eff. Apr. 23, 1999.)

### **Canvassing Votes Cast for Primary Candidates who file with the Election Division:**

Each circuit court clerk must send the election division a complete list of primary election returns for these candidates no later than noon on the Monday following the primary. No later than noon on the second Wednesday following a primary in a general election year, *or seven days after the election division receives the final local recount commission certificate, whichever occurs later*, the election division shall complete the canvass of votes cast for primary candidates who filed a declaration of candidacy with the election division. (IC 3-10-1-33 (SEA 109, SEC. 59), eff. May 10, 1999; IC 3-10-1-34 (SEA 109, SEC. 60), eff. July 1, 1999.)

### **Certificates of Nomination for Primary Candidates who file with the Election Division:**

The secretary of state shall furnish the state chairs of both major political parties with a list of all candidates nominated at the primary election conducted in a general election year for offices for which the candidate must file a declaration of candidacy with the election division. This list must be furnished no later than noon ten days after: (1) the election division receives the candidate lists and primary vote totals from each circuit court clerk; or (2) the certification of the canvass performed by the election division, whichever occurs later. No other form of certification of the nominees for these offices is required. An obsolete reference to primary candidates listed in a certificate of nomination filed with the election division has been repealed. (IC 3-8-7-6 (SEA 109, SEC. 34), eff. July 1, 1999; IC 3-10-1-33 (SEA 109, SEC. 59, eff. May 10, 1999).)

### **Certificates of Election for Convention Delegates and Precinct Committeemen:**

A circuit court clerk shall issue, upon request, a certificate of election to an individual who is elected a precinct committeeman or state convention delegate. The certificate may be issued no earlier than noon ten days after election day (the deadline for a county chairman to file for a recount). Obsolete references to a different "ten day period" before issuing a certificate of election have been repealed. (IC 3-12-5-2 and 3-12-5-16 (HEA 1079, SEC. 58 and 59), eff. Apr. 23, 1999.)

The secretary of state shall furnish the state chairs of both major political parties with a list of all state convention delegates elected at the primary election conducted in a general election year. This list must: (1) be certified separately from the certified list of candidates nominated at the primary election; (2) be furnished no later than noon ten days after the election division receives the delegate lists from each circuit court clerk; and (3) not contain the name of any individual appointed as a state convention delegate. (IC 3-8-7-6.5 (SEA 109, SEC. 35), eff. July 1, 1999.)

### **Canvassing Votes for Candidates Filling Late Ballot Vacancies:**

If a ballot has been reprinted (or contains pasters) to omit the name of an individual who is no longer a candidate, and the candidate vacancy is filled after the ballots are reprinted or the pasters applied, a vote cast on the ballot where the statement "NO CANDIDATE" or "CANDIDATE DECEASED" appears is considered a vote cast for the successor candidate. (IC 3-12-1-16 (HEA 1079, SEC. 57), eff. Apr. 23, 1999.)

### **Canvassing Votes for Candidates for Federal Offices:**

The election division shall tabulate the votes cast for each candidate for election as a United States Senator or United States Representative. The election division shall prepare a certificate of election for the winning candidate. The election division shall transmit the certificate of election for a United States Senator to the governor, who shall sign the election certificate and transmit it to the secretary of state. The secretary of state shall attest the certificate and forward it to the secretary of the United States Senate.

The election division shall transmit the certificate of election for a United States Representative to the secretary of state, who shall sign it and forward the certificate to the clerk of the United States House of Representatives.

The election division (rather than the governor under former law) shall provide an original copy of the certificate of election to the candidate. (IC 3-12-5-9 and 3-12-5-10 (SEA 109, SEC. 93-94), eff. May 10, 1999.)

### **Recounts in Elections at Which Ballot Card Votes Were Cast:**

If a punch card ballot or an optical scan ballot card is not initialed by both poll clerks, the ballot is void. However, unless: (1) the ballot was cast by an absentee voter; or (2) there is evidence of fraud, tampering, or misconduct affecting the integrity of the ballot other than the failure of both poll clerks to initial the ballot, the ballot is to be counted in any recount or contest proceeding occurring after the election. (IC 3-11-13-28 and 3-11-13-30 (SEA 109, SEC. 85 and 88), eff. May 10, 1999.)

### **Recounts for Local Offices and on Local Public Questions:**

A recount petition must state the name of each candidate for the nomination or office, as set forth on the ballot for the election, and the address of each candidate, as set forth in the records of the county election board or election division. (IC 3-12-6-3 (SEA 109, SEC. 95), eff. July 1, 1999.)

A court may not allow a recount petition or cross-petition to be amended: (1) if the petition or cross-petition as originally filed failed to comply with the local recount statutes; or (2) was not filed before the deadline for filing the petition or cross-petition. (IC 3-12-6-7 (SEA 109, SEC. 96), eff. May 10, 1999.)

Whenever a motion to dismiss a petition or cross-petition is filed, the court shall rule on the motion to dismiss before the local recount

commission conducts the recount. A motion to dismiss must state that: (1) the petitioner or cross-petitioner has failed to comply with the local recount law; and (2) specifically identify the requirement that the petitioner or cross-petitioner has failed to comply with. (IC 3-12-6-21 (SEA 109, SEC. 97), eff. May 10, 1999.)

The local recount commission shall adopt procedures for conducting the recount as its first item of business. The procedures must be based as closely as practical on the procedures adopted by the state recount commission. (IC 3-12-6-21 (SEA 109, SEC. 97), eff. May 10, 1999.)

The local recount commission must complete a recount for nomination to an office not later than the final Friday in June following the primary. (IC 3-12-6-21.9 (SEA 109, SEC. 98), eff. May 10, 1999.)

A cash deposit for a local recount concerning a public question shall be deposited in the county general fund. (IC 3-12-12-5 (SEA 109, SEC. 112), eff. May 10, 1999.)

A circuit court clerk shall file a copy of the certificate issued when a local recount is completed in the minutes of the county election board and, if the recount concerned an office for which a candidate files a declaration of candidacy with the election division (judge or prosecuting attorney), with the election division no later than noon seven days after the local recount commission files the certificate with the circuit court clerk. (IC 3-12-6-22 and 3-12-6-28 (HEA 1079, SEC. 60 and 61), eff. Apr. 23, 1999.)

### **Contests Concerning Local Offices:**

The local contest procedure statutes do not apply to an eligibility challenge filed before an election board concerning a candidate nominated by petition to an office. The procedures set forth in IC 3-8-1-2 apply to that type of candidate challenge. (IC 3-12-8-11.9 (SEA 109, SEC. 99), eff. May 10, 1999.)

An election to a local office may be contested by a petitioner who alleges that a deliberate act or series of actions occurred making it impossible to determine the candidate who received the highest number of votes cast in the election. The petition must identify each precinct or other location in which the act or series of acts occurred, to the extent known to the petitioner. (IC 3-12-8-2 and 3-12-8-6 (SEA 109, SEC. 100-101), eff. May 10, 1999.)

A local contest petition must state the name of each candidate for the nomination or office, as set forth on the ballot for the election, and the address of each candidate, as set forth in the records of the county election board or election division. (IC 3-12-8-6 (SEA 109, SEC. 101), eff. May 10, 1999.)

A court may allow a contest petition or cross-petition to be amended at any time, subject to the terms and conditions ordered by the court. However, the contest petition or cross-petition may not be amended: (1) if the petition or cross-petition as originally filed failed to comply with the local recount statutes; or (2) was not filed before the deadline for filing the petition or cross-petition. (IC 3-12-8-6.5 (SEA 109, SEC. 102), eff. May 10, 1999.)

The cost of a local contest shall be paid from the county general fund, without appropriation. (IC 3-12-8-22 (SEA 109, SEC. 103), eff. May 10, 1999.)

A circuit court clerk shall file a copy of a court's determination regarding a contest for a local office with: (1) the county election board; (2) if the contest concerned an office for which a candidate files a declaration of candidacy with the election division (judge or prosecuting attorney), with the election division; and (3) if the contest concerned an office commissioned by the governor (such as circuit court clerk, county auditor, and the other county constitutional offices), with the governor. (IC 3-12-8-18 (HEA 1079, SEC. 62), eff. Apr. 23, 1999.)

### **State Recount Commission Recounts and Contests:**

The state recount fund is established to receive, hold, and disburse funds as a fiduciary for the state recount commission and individuals who have provided a cash deposit for a recount conducted by the commission. The administrative division of the office of the secretary of state shall administer the fund. Any unexpended balance from a cash deposit remaining after the payment of recount costs remains in the fund. Money in the fund does not revert at the end of a fiscal year, and is continuously appropriated for the fund's purposes. (IC 3-12-10-2.2, 3-12-11-10, 3-12-11-11, and 3-12-12-5 (SEA 109, SEC. 104, 109-110, and 112), eff. May 10, 1999.)

The state board of accounts shall conduct a state level recount in accordance with the state recount law and the guidelines adopted by the state recount commission. (IC 3-12-10-8 (SEA 109, SEC. 105), eff. July 1, 1999.)

A recount petition or a contest petition must state the name of each candidate for the nomination or office, as set forth on the ballot for the election, and the address of each candidate, as set forth in the records of the county election board or election division. (IC 3-12-11-3 (SEA 109, SEC. 107), eff. July 1, 1999.)

An election may be contested before the state recount commission by a petitioner who alleges that a deliberate act or series of actions

occurred making it impossible to determine the candidate who received the highest number of votes cast in the election. The petition must identify each precinct or other location in which the act or series of acts occurred, to the extent known to the petitioner. (IC 3-12-11-3 (SEA 109, SEC. 107), eff. July 1, 1999.)

The state recount commission may not allow a recount or contest petition or cross-petition to be amended: (1) if the petition or cross-petition as originally filed failed to comply with the state recount or contest statutes; or (2) was not filed before the deadline for filing the petition or cross-petition. (IC 3-12-11-7 (SEA 109, SEC. 108), eff. July 1, 1999.)

Whenever a motion to dismiss a petition or cross-petition is filed, the state recount commission shall rule on the motion to dismiss before ordering or continuing with the contest or recount. A motion to dismiss must state that: (1) the petitioner or cross-petitioner has failed to comply with the state contest or recount law; and (2) specifically identify the requirement that the petitioner or cross-petitioner has failed to comply with. (IC 3-12-11-12 (SEA 109, SEC. 111), eff. July 1, 1999.)

The expenses of a recount shall be paid after the state recount commission determines whether a full or partial refund of any cash deposit should be made. The expenses of a contest shall be paid from the state recount fund. (IC 3-12-10-12 (SEA 109, SEC. 106), eff. May 10, 1999.)

A person who claims reimbursement for expenses from a state level recount or contest must submit a claim to the state recount commission not later than noon 60 days after the commission adopts a final order concerning the recount or contest. A claim for reimbursement for expenses incurred in a contest or recount conducted after January 1, 1986, and before January 1, 1999 must be submitted to the state recount commission no later than noon, August 1, 1999. If the commission approves the claim, the treasurer of state shall issue a warrant to the person. There is appropriated to the state recount fund from the state general fund an amount sufficient for the commission's use in paying approved claims. (IC 3-12-10-12 (SEA 109, SEC. 106 and 143), eff. May 10, 1999.)

## **CITY AND TOWN ELECTIONS**

### **City and Large Town Primary Elections to Nominate Uncontested Candidates:**

In a primary conducted in a municipal election year, all candidates for nomination to city office or town office must be printed on the primary election ballot unless otherwise provided by law.

If **no** candidate has filed for the nomination of a party to **any** office of the city or town, the political party **may not** hold a primary in the city or town.

If **at least one** candidate has filed for the nomination of a party to any office of the city or town, **but all the candidates for nomination by that party are unopposed**, the political party **may** hold a primary in that city or town **if** the county chairman of the party files a notice with the county election board no later than noon seven days after the deadline for filing a declaration of candidacy for the primary, stating that a primary election will be held in the city or town. If this statement is filed, the names of all unopposed candidates for that party's nominations must be printed on the ballot.

If there is a contest within a political party for nomination to a city or town office **voted on by all or part of the voters of that party in the city or town**, the name of **each** candidate has filed for the nomination of that party for **any** office of the city or town must be placed on the ballot, whether or not the candidate is unopposed.

If there is a contest within a political party for nomination to a city or town council seat **voted on only by the voters of that party residing in the city or town council district**, and there is **no contest for an office to be voted on by all of the voters of that party in the entire city or town**, the county election board may adopt a resolution by unanimous vote of its entire membership to hold a primary election **only** within the city or town council district. The names of unopposed candidates for offices to be voted on by all of the voters of the city or town **may not** be printed on the primary election ballot used in that city or town council district.

(References in former law to contests within a *precinct* have been replaced by references to contests within an *election district*.) (IC 3-10-6-4 (SEA 109, SEC. 61), eff. May 10, 1999; (HEA 1313, SEC. 15), eff. May 13, 1999.)

### **Eligibility Challenges:**

A town election board must follow the same procedures as the Indiana election commission or a county election board to determine the eligibility of a challenged candidate. A town election board has jurisdiction over candidates who have filed for nomination or election to a town office with the circuit court clerk, the county election board, or a county voter registration office. (IC 3-8-1-2 (HEA 1079, SEC. 21), eff. Apr. 23, 1999.)

### **Town Council Candidates in Certain Large Towns:**

Democratic Party and Republican Party candidates for election to the town council of a town with a population of more than 10,000 which has adopted an ordinance to provide that four town council members are to be elected in the municipal election year and three town council members are to be elected in a general election year shall be nominated at primaries conducted in the municipal election and general election years. In the municipal election year primary, three candidates shall be nominated for district seats on the town council and one candidate for an at large seat on the council (along with the town clerk-treasurer and town judge, if any). In the general election year primary, two candidates shall be nominated for district seats on the town council and one candidate for an at large seat on the council. If the town subsequently adopts an ordinance to abolish the two at large seats, an additional district member must be nominated in each primary election instead. (IC 3-10-6-4.5 (HEA 1079, SEC. 33), eff. Apr. 23, 1999.)

### **Libertarian Party Candidates in Cities and Large Towns:**

An individual nominated as the Libertarian Party candidate for office in a city or in a town with a population of at least 3,500 which is not located wholly or partially within Marion County may withdraw in the same manner and by the same deadline as candidates nominated by Democratic Party or Republican Party at the primary election in the city or large town. (IC 3-10-6-12.5 (SEA 109, SEC. 62), eff. May 10, 1999; (HEA 1313, SEC. 17, eff. May 13, 1999.)

### **Libertarian Party Candidates in Small Towns:**

An individual who wishes to be nominated as the Libertarian Party candidate for office in a town with a population of less than 3,500 which is not located wholly or partially within Marion County must file a declaration of candidacy with the county election board in the same manner as a Democratic Party or Republican Party candidate for a small town office. If the candidate has no opposition for the nomination within the Libertarian Party, the candidate is placed on the municipal election ballot. If more than one Libertarian candidate seeks nomination to the same town office, the Libertarian Party must conduct a town convention to nominate its candidate. Any convention must be conducted no later than the deadline for conducting a Democratic Party or Republican Party town convention in the small town. A Libertarian Party candidate nominated by the town convention may withdraw in the same manner and by the same deadline as candidates nominated by Democratic Party or Republican Party town conventions. (IC 3-8-5-7 (HEA 1079, SEC. 26), eff. Apr. 23, 1999.)

### **Small Town Election Deadlines in 2000 and Later Years:**

Certain election deadlines in towns with a population of less than 3,500 are moved approximately thirty days earlier in the calendar year, beginning with elections in the year 2000:

- (1) A declaration of candidacy for a town office must be filed no later than noon, August 1 (rather than noon, September 1 under current law).
- (2) A declaration of candidacy for a town office may be withdrawn no later than noon, August 1 (rather than noon, September 1 under current law).
- (3) If a town nominating convention is required, the convention must be held before August 21 (rather than September 14 under current law).
- (4) The chairman and secretary of a town nominating convention must file a certificate of nomination listing the candidates nominated at the convention with the circuit court clerk no later than noon, August 28 (rather than noon, September 21 under current law for Democratic and Republican conventions, and noon August 1 for Libertarian conventions). The circuit court clerk must file this certificate with the town clerk-treasurer no later than noon September 4 (rather than noon September 30 under current law.)
- (5) An election board must rule on the validity of any town election declaration of candidacy, petition of nomination, or certificate of nomination no later than noon, September 11 (rather than noon, October 1 under current law). An error in the certification of candidates for town offices may be corrected if the error is discovered no later than September 18 (rather than October 8 under current law.)

(IC 3-8-5-10, 3-8-5-10.5, 3-8-5-13, 3-8-5-14.7, 3-8-7-3, and 3-10-6-12 (SEA 175, SEC. 1-6), eff. Jan. 1, 2000.)

### **Voter Registration Transfers in City and Town Elections:**

A voter who has moved from a location **outside** of a city or town to a location **within** a city or town less than 30 days before an election in the city or town **may not** return to the voter's former residence outside the city or town to cast a vote in the city or town election by using the request for transfer (*VRG-4*) form. (IC 3-10-12-3 (HEA 1313, SEC. 18), eff. May 13, 1999; SEA 109, SEC. 65), eff. July 1, 1999.)



## **COUNTY ELECTION BOARDS AND ELECTION ADMINISTRATION**

### **County Election Administrator Conference:**

A county election board member or board of voter registration member is entitled to receive a lodging allowance for each night before the annual county election administrator conference equal to the lodging allowance provided to state employees in travel status. (IC 3-5-6-6 (HEA 1079, SEC. 5), eff. Jan. 1, 1997 [retroactive].)

### **Lake County Board of Elections and Registration:**

The former Lake County Combined County Election Board and Board of Registration is renamed the Lake County Board of Elections and Registration.

The chief deputy and assistant chief deputy of the combined board are now titled the director and assistant director of the board of elections and registration. The director of the board receives a salary determined by the Board (rather than a salary not less than the salary of other chief deputies in the county, as provided by former law.)

The board may, by a majority vote of its members, hire attorneys to provide legal services for the board.

The board establishes the number and compensation of board employees, one half of whom are appointed by each county chairman of a major political party of the county. The director, assistant director, and Board employees serve at the pleasure of their appointing authorities.

An individual serving as a member of the combined board on June 30, 1999 serves as an initial member of the board of elections and registration. The individual serving as chief deputy of the combined board on June 30, 1999 serves as the initial director of the board of elections and registration. The individual serving as assistant chief deputy of the combined board on June 30, 1999 serves as the initial assistant director of the board of elections and registration. An individual serving as an employee of the combined board on June 30, 1999 serves as an employee of the board of elections and registration, with all the rights, duties, and conditions of employment that the individual had on June 30, 1999.

All of the powers, duties, functions, property, and records of the combined board are transferred to the board of elections and registration on July 1, 1999. An appropriation made to the combined board is considered an appropriation to the board of elections and registration. Any reference to the combined board in a statute, rule, or ordinance is treated as a reference to the board of elections and registration after June 30, 1999. (IC 3-6-5.2-2, 3-6-5.2-3, 3-6-5.2-5, 3-6-5.2-6, and 3-6-5.2-7 (SEA 109, SEC. 4-8), eff. July 1, 1999; IC 3-6-5.2-8 (SEA 109, SEC. 9), eff. May 10, 1999; IC 3-11-3-6 and 3-11-4-3 (SEA 109, SEC. 66-67), eff. Apr. 23, 1999 [retroactive]; SEA 109, SEC. 140, eff. May 10, 1999.)

### **Primary Elections to Nominate Uncontested Candidates or to Elect Uncontested Candidates to a Political Party Office:**

In a primary conducted in a general election year, if the only contest in a political party is for the election of precinct committeemen or state convention delegates, the names of the unopposed candidates for the party's nominees to office are not required to be printed on the primary election ballot unless the appointed member of the county election board affiliated with the political party files a written request that the names of the unopposed candidates be printed on the primary ballot. (IC 3-10-1-5 (SEA 109, SEC. 55), eff. May 10, 1999.)

In a primary conducted in a general election year, the names of unopposed candidates for precinct committeemen or state convention delegates are not required to be printed on the primary election ballot unless the appointed member of the county election board affiliated with the political party files a written request that the names of the unopposed candidates be printed on the primary ballot. This statement must be filed no later than seven days after the deadline for filing a declaration of candidacy for the primary. (IC 3-10-1-5 (SEA 109, SEC. 55), eff. May 10, 1999.)

## **OFFICEHOLDERS**

### **Residency Requirements for Statewide Officeholders:**

The statutes which cross-referenced a provision in the Indiana Constitution which required an individual serving as secretary of state, auditor of state, or treasurer of state to "reside at the seat of government" have been repealed. This provision in the Indiana Constitution was repealed by the voters at the general election conducted Nov. 3, 1998. (IC 4-5-1-10, 4-7-1-17, and 4-8-1-2-15 (SEA 109, SEC. 133 and HEA 1313, SEC. 27), eff. Nov. 3, 1998 [retroactive].)

### **Vacancies in State Legislative Offices:**

Elected precinct committeemen and the vice-committeemen of elected committeemen are eligible to participate in a caucus to fill a vacant state legislative office, regardless of when the ballot vacancy occurred. Appointed precinct committeemen are eligible to participate in a caucus to fill a vacant state legislative office if the appointed precinct committeeman was serving as committeeman 30 days before the vacancy occurred. Appointed vice-committeemen of appointed committeemen are eligible to participate in a caucus to fill a vacant state legislative office if the appointed vice-committeeman was serving as vice-committeeman 30 days before the vacancy occurred. (Under former law, precinct vice-committeemen were usually not eligible to participate in a caucus to fill a vacant state legislative office.) (IC 3-13-5-4 (HEA 1079, SEC. 64), eff. Apr. 23, 1999; SEA 109 (SEC. 115), eff. Apr. 23, 1999 [retroactive].)

A candidate to fill a vacant state legislative office in a caucus must meet the same requirements as a candidate for nomination to a state legislative office in a primary. (IC 3-8-1-5.7 (SEA 109, SEC. 28), eff. May 10, 1999.)

### **Vacancies in Local Elected Offices:**

Elected precinct committeemen and the vice-committeemen of elected committeemen are eligible to participate in a caucus to fill a vacant local elected office, regardless of when the ballot vacancy occurred. Appointed precinct committeemen are eligible to participate in a caucus to fill a vacant local elected office if the appointed precinct committeeman was serving as committeeman 30 days before the vacancy occurred. Appointed vice-committeemen of appointed committeemen are eligible to participate in a caucus to fill a vacant local elected office if the appointed vice-committeeman was serving as vice-committeeman 30 days before the vacancy occurred. (Under former law, precinct vice-committeemen were usually not eligible to participate in a caucus to fill a local elected office. The former law requiring continuous service by an appointed committeeman or vice-committeeman for thirty days before the vacancy occurred has been repealed.) (IC 3-13-11-5, 3-13-11-7, and 3-13-11-11 (HEA 1079, SEC. 66-68), eff. Apr. 23, 1999; IC 3-13-11-5 (SEA 109, SEC. 116), eff. Apr. 23, 1999 [retroactive].)

A person who assumes the duties of a vacant local elected office serves for the remainder of the unexpired term (except for circuit court judges, who serve until the next general election). (IC 3-13-11-18 (HEA 1079, SEC. 69), eff. Apr. 23, 1999.)

### **Superior Court or Probate Court Judges:**

An individual serving as judge of a superior court or a judge of a probate court must be a resident of the judicial circuit that the person serves. However, an individual serving as judge on July 1, 1999 is exempt from this residency requirement during the individual's current term of office. (IC 33-5-3.5-7 (SEA 28, SEC. 1-3 and 6), eff. July 1, 1999.)

The office of judge of the Cass Superior Court No. 2 is established, effective January 1, 2001. The first election for this office will be conducted at the Nov. 7, 2000 general election. (IC 33-5-9.7-1 and 33-5-9.7-2 (HEA 1148, SEC. 11-12), eff. Jan. 1, 2001; (HEA 1148, SEC. 72), eff. July 1, 1999.)

The office of judge of the Elkhart Superior Court No. 6 is established, effective January 1, 2001. The first election for this office will be conducted at the Nov. 7, 2000 general election. (IC 33-5-13.1-2 and 33-5-13.1-10 (HEA 1148, SEC. 24-25 and 70), eff. July 1, 1999.)

The superior court of Lake County consists of sixteen judges after June 30, 2000 (rather than thirteen judges under current law). Two additional superior court judges serve in the civil division of the court after that date; one additional judge of the superior court serves in the county division after that date. The initial judges of these superior courts must be appointed by the governor before July 1, 2000. The initial terms of the judges of the Lake County superior court civil division begin July 1, 2000 and end Dec. 31, 2004. These judges are subject to a retention vote in accordance with the current law governing the court. The initial term of the judge of the Lake County superior court county division begins July 1, 2000 and ends Dec. 31, 2006. The initial election (rather than retention vote) for a judge of this court shall be conducted at the Nov. 6, 2006 general election. (IC 33-5-29.5-21 and 33-5-29.5-27 (HEA 1148, SEC. 29-30 and 70), eff. July 1, 1999.)

When a vacancy occurs in the Superior Court of Lake County, County Division, the vacancy shall be filled by appointment by the governor (rather than by the governor from among names submitted by the Lake County judicial nominating commission). (IC 33-5-29.5-35, 33-5-29.5-39.5, 33-5-29.5-40, and 33-5-29.5-41 (HEA 1148, SEC. 31-34), eff. July 1, 1999.)

The office of judge of a second Noble Superior Court is established, effective July 1, 1999. The first election for this office will be conducted at the Nov. 5, 2002 general election. (IC 33-5-37.5-1 and 33-5-37.5-2 (HEA 1148, SEC. 36-37, and 69), eff. July 1, 1999.)

The offices of judge of the Tippecanoe Superior Court No. 4, No. 5, and No. 6 are established, effective January 1, 2001. The first election for Superior Court No. 6 will be conducted at the Nov. 7, 2000 general election. The first election for Superior Court No. 4 and No. 5 will be conducted at the Nov. 5, 2002 general election. (IC 33-5-42.2 (HEA 1148, SEC. 56), eff. Jan. 1, 2001; (HEA 1148, SEC. 65-67), eff. July 1, 1999.)

### **County Court Judges:**

An individual serving as judge of a county court must be a resident of the county that the person serves. However, an individual serving

as judge on July 1, 1999 is exempt from this residency requirement during the individual's current term of office. (IC 33-10.5-4-1 (SEA 28, SEC. 4 and 6), eff. July 1, 1999.)

The office of judge of the Noble county court is abolished, effective July 1, 1999. The person serving as judge at that time becomes the initial judge of the newly created second Noble superior court. (HEA 1148, SEC. 69), eff. July 1, 1999.)

The office of judge of Tippecanoe county court No. 1 is abolished, effective midnight Dec. 31, 2000. The person serving as judge at that time becomes the initial judge of Tippecanoe superior court No. 4. The office of judge of Tippecanoe county court No. 2 is abolished, effective midnight Dec. 31, 2000. The person serving as judge at that time becomes the initial judge of Tippecanoe superior court No. 5. (IC 33-10.5-1-6 and 33-10.5-10-2 (HEA 1148, SEC. 60 and 64), eff. Jan. 1, 2001; IC 33-10.5-10-1 and 33-10.5-10-2 (HEA 1148, SEC. 61, 63, 65, and 66), eff. July 1, 1999.)

#### **Marion County Township Small Claims Court Judges:**

The former Marion County Small Claims Courts originally created in all Marion County townships with a population of more than 15,000 are replaced by the "*Township Name* of *Marion County Small Claims Courts*" which are created in all Marion County townships. A judge of the small claims court who is not an attorney on July 1, 1999 may serve for the remainder of the judge's term. (IC 33-11.6-1-3 (HEA 1440, SEC. 3), eff. Jan. 1, 2001, and HEA 1440, SEC. 10, eff. July 1, 1999.)

An individual serving as a Marion County township small claims court judge must file a statement of economic interests with the Indiana Commission on Judicial Qualifications not later than February 1 of each year. (IC 33-2.1-8-1 and 33-2.1-8-7 (SEA 109, SEC. 126-127), eff. July 1, 1999.)

#### **Avon Town Court Judge:**

An individual serving as judge of the Avon town court must be an attorney in good standing. However, this requirement does not apply to an individual elected judge in the 1999 municipal election. IC 33-10.1-5-7 (HEA 1148, SEC. 59 and 74), eff. May 13, 1999.)

#### **Lake County Superior Court Magistrate:**

An individual serving as magistrate appointed by the Lake County Superior Court Division No. 1, 2, or 3 must be a resident of Lake County. (Former law provided that this individual "need not" be a resident of the county. IC 33-5-29.5-7.2 (SEA 274, SEC. 6), eff. May 13, 1999.)

#### **Prosecuting Attorney:**

An individual serving as prosecuting attorney must be a resident of the judicial circuit that the person serves. However, this requirement does not apply to a deputy prosecuting attorney appointed by a prosecuting attorney or to a special prosecutor appointed by a court. (SEA 274, SEC. 8, eff. May 13, 1999; IC 33-14-1-1.5 (SEA 28, SEC. 5 and SEA 274, SEC. 7), eff. July 1, 1999.)

A *copy* of the oath of office of an individual serving as prosecuting attorney may be recorded on the prosecuting attorney's bond or attached to the prosecuting attorney's commission. (IC 5-4-1-2 (SEA 109, SEC. 121), eff. Dec. 1, 1998 [retroactive].)

#### **Administering Oaths of Office:**

The clerk of the supreme court may administer oaths and take acknowledgments generally.

A township trustee may administer oaths and take acknowledgments within the trustee's township. (IC 33-16-4-1 (SEA 109, SEC. 130), eff. May 10, 1999.)

An obsolete provision concerning the administration of oaths of office to county assessors, township assessors, and their deputies has been repealed. (IC 5-4-1-1.1 (SEA 109, SEC. 134), eff. May 10, 1999.)

#### **Filing Oaths of Office:**

The oath of office of a circuit court clerk must be filed in the office of the circuit court clerk.

The oath of office of a deputy prosecuting attorney must be filed in the office of the circuit court clerk of the county in which the deputy resides *or serves*.

The oath of office of an officer of a political subdivision or a school corporation must be filed in the circuit court clerk's office of the county containing the greatest percentage of population of the political subdivision or school corporation. (Former law provided that the oaths of certain county officials and township officers were to be filed with the county auditor; the oaths of deputy surveyors were to be filed with the county surveyor; the oaths of township trustees were to be filed with the township trustee; the oaths of city and town officers were to

be filed with the city or town clerk or clerk-treasurer). (IC 5-4-1-4 (SEA 109, SEC. 122), eff. May 10, 1999; (SEA 274, SEC. 5), eff. May 13, 1999.)

#### **Deadline for Officers of a Political Subdivision to Take and File the Oath of Office:**

An officer of a political subdivision must take and file the officer's oath of office no later than 30 days after the beginning of the officer's term, or the office becomes vacant. This requirement does not apply to an individual appointed or elected to an office whose establishment or qualifications are expressly provided for in the federal Constitution or the Indiana Constitution (such as a county auditor or treasurer, for example). (Former law provided that township assessors and city officials must take and file their oaths of office within ten days, or the offices become vacant.) (IC 5-4-1-1.2 (SEA 109, SEC. 120), eff. May 10, 1999.)

#### **Deputies of the Officer of a Judicial Circuit or a Political Subdivision:**

An individual appointed as a deputy of an officer of a political subdivision or a judicial circuit does not hold a "lucrative office" as a result for purposes of the Indiana Constitution, which prohibits an individual from holding more than one lucrative office. (IC 5-6-4 (SEA 109, SEC. 124), eff. May 10, 1999.)

An individual appointed as a deputy of an official of a political subdivision is considered an employee of the political subdivision performing ministerial functions on behalf of the officer, and is **not** required to take an oath before serving as deputy. However, a chief deputy acting as an officer during the period before a vacant office is filled under state law must take an oath before entering into the duties of interim officeholder. (IC 5-4-1-1 (SEA 109, SEC. 119), eff. Jan. 1, 1999 [retroactive].)

An individual appointed as a deputy of a circuit court clerk is not required to take an oath of office before performing the duties of the circuit court clerk. (IC 5-6-1-2 (SEA 109, SEC. 123), eff. May 10, 1999.)

#### **City Officeholders:**

An elected city official's powers, duties, and functions remain unchanged until the expiration of the official's term of office, despite a change in the city's classification for state law purposes for any reason. (IC 36-1-4-8 (HEA 1513, SEC. 2), eff. July 1, 1999.)

#### **"Holdover" by "At Large" Town Council Members:**

If fewer at large town council members have been elected than there were members to be elected, the town council shall determine no later than December 31 following the town election (rather than at the council's first organizational meeting of the following year) which incumbent town council member or members continue to hold office under the "holdover" provision of Article 15, Section 3 of the Constitution of the State of Indiana until the next town election in four years. (IC 3-13-9-5.6 (HEA 1079, SEC. 65), eff. Apr. 23, 1999.)

#### **Town Council Members in Certain Large Towns:**

The town council of a town with a population of more than 10,000 may adopt an ordinance to provide for a seven member town council (with five members elected by the voters of a district and two members elected at large). The ordinance must provide that four town council members are to be elected in the municipal election year and three town council members are to be elected in a general election year. The ordinance must not permit any town council member to serve a term of more than four years, and must not permit the two at large members to be elected at the same time. The ordinance may provide for additional town council members to be appointed by vote of the current town council members to serve after the adoption of the ordinance and until the first election under the ordinance. To implement the election schedule, two council members elected at the first and second elections conducted after the ordinance is adopted serve for three year terms. If the town subsequently adopts an ordinance to abolish the two at large seats, the subsequent ordinance must provide for the election of all of the additional district members from districts. (IC 36-5-2-4.5 (HEA 1079, SEC. 72), eff. Apr. 23, 1999.)

#### **Town Clerk-Treasurers:**

The town clerk-treasurer is authorized to cast a tie-breaking vote on any matter under consideration by the town council. (Former law permitted the clerk-treasurer to cast a tie-breaking vote only when the town council had an even number of members.) (IC 36-5-2-8 (HEA 1024, SEC. 3), eff. April 23, 1999.)

#### **School Board Vacancies in Tippecanoe County:**

If a vacancy occurs on a school board in Tippecanoe County, the remaining members of the school board fill the vacancy by majority vote of the remaining school board members, even if those members do not constitute a majority of the school board. The person selected to fill

the vacancy must meet all the qualifications of an individual who serves as a member, and serves for the remainder of the unexpired term. If a tie vote occurs when the remaining school board members vote (or if the school board members fail to act within thirty days after the vacancy occurs), the township board of the township in which the greatest percentage of population of the school corporation resides shall break the tie. A member of the township board who was a candidate and involved in the tie vote may not cast a vote to break a tie under this provision. If the members of the township board tie in filling this vacancy, the township trustee breaks the tie and fills the vacancy. (IC 20-4-1-42 (HEA 1079, SEC. 71), eff. Apr. 23, 1999.)

#### **Hammond Community School Corporation School Board Term Limits:**

An individual serving as a member of the Hammond community school board may serve in that office for any number of years. (Former law provided that a member of the school board was not eligible to serve more than three terms out of four consecutive terms, including any time spent filling a vacancy.) (IC 20-4-3-2 (SEA 109, SEC. 125), eff. July 1, 1999.)

## **POLITICAL PARTIES**

#### **Political Party Officers not considered "Officers" under the State Constitution:**

An individual holding a "political party office", including serving as a precinct committeeman, a vice-committeeman, a state convention delegate, or as the chair or other officer of a political party central committee, is not considered to be holding an office for the purposes of Article 15 of the Constitution of the State of Indiana. As a result: (1) the appointment of a central committee officer may not be prescribed by state law; (2) state law may not prescribe that a political party officer holds office during the pleasure of the authority making the appointment; (3) a political party officer does not "hold over" until the person's successor is elected and qualified; and (4) a political party officer is not required to take an oath of office before entering on the duties of the office. (IC 3-6-1-15 (HEA 1079, SEC. 4), eff. April 23, 1999.)

## **POLLING PLACES AND PRECINCT WORKERS**

#### **Partial Day Appointments for Precinct Judges, Poll Clerks, and Sheriffs:**

A county chairman may nominate an individual to serve as a precinct judge, poll clerk, assistant poll clerk, or sheriff for a term that ends at noon on election day, and another individual to serve in that office for a term beginning at noon and ending when the canvassing for precinct is finished. (IC 3-6-6-10, 3-6-6-11, and 3-6-6-14 (SEA 109, SEC. 14-16), eff. May 10, 1999.)

#### **Partisan Affiliation of Precinct Election Officers:**

The current law, which: (1) authorizes each major political party chairman to nominate individuals to serve as certain precinct election officers; (2) requires those nominees to be appointed by the county election board if otherwise qualified; and (3) permits the county election board to fill any remaining vacancies during the final week before election day, regardless of party affiliation, is cross-referenced in the statutes providing for precinct election officers to clarify that the party affiliation of an individual serving due to the failure of a county chairman to nominate a person may be the same party affiliation as the other individual nominated by the other major party chair to serve in that office. (IC 3-6-6-1, 3-6-6-2, 3-6-6-3, 3-6-6-5, and 3-6-6-32 (SEA 109, SEC. 10-13 and 17), eff. May 10, 1999.)

#### **Location of Pollbook Holders:**

A pollbook holder is entitled to enter the polls before voting begins, remain in the polls on election day, and to leave and reenter the polls on election day. While present in the polls, the pollbook holder is subject to the orders of the precinct election board and must produce an identification card upon demand by any member of the precinct election board. (Former law required a pollbook holder to stand with a challenger at the sides of the chute next to the entrance to the polls.) (IC 3-6-7-2, IC 3-6-7-5, IC 3-11-8-15, and IC 3-11-8-16 (HEA 1079, SEC. 6, 7, 43, and 44), eff. Apr. 23, 1999.)

#### **Accessibility Standards for Precincts:**

The county commissioners (or Mayor of Indianapolis) shall, if possible, locate the polls for each precinct in a facility that meets accessibility standards for voters under federal law (rather than guidelines established by the Indiana election commission). (IC 3-11-8-6 (HEA 1079, SEC. 42), eff. Apr. 23, 1999.)

**Assistance to Voters:**

The statutes prohibiting a voter from showing a marked ballot to another person and a person examining a voter's marked ballot do not apply to a person who is assisting the voter at a polling place or as a traveling absentee board member in the manner provided by state law (IC 3-11-9). The statute prohibiting a person from delivering a ballot to a person to be voted does not apply to a member of a county election board or absentee voter board acting in accordance with the absentee voting law (IC 3-11-10). (IC 3-14-2-16 (HEA 1079, SEC. 70), eff. Apr. 23, 1999.)

**Processing Ballot Cards:**

In a precinct using punch cards or optical scan ballot cards, the inspector shall, at the opening of the polls, deliver 50 of the state and local ballots to the poll clerk representing the opposite political party for marking (rather than 25 of these ballots under former law). (IC 3-11-13-27.5 (SEA 109, SEC. 84), eff. May 10, 1999.)

## **PRECINCTS; LOCAL GOVERNMENT BOUNDARIES AND CLASSIFICATIONS**

**Voters in University Precincts:**

The county commissioners (or Mayor of Indianapolis) may establish a precinct located wholly or partially within certain Indiana colleges and universities without regard to the statutory limit on the number of voters within the precinct if less than 40% of the active voters in the precinct voted in the last primary election (rather than the last general election under former law). (IC 3-11-1.5-3.5 (HEA 1079, SEC. 34), eff. Apr. 23, 1999.)

**Geographic Information System Containing State Legislative District Information:**

An electronic geographic information system produced from data gathered by legislative services agency and processed using proprietary software that has been licensed to legislative services agency is considered the "work product" of legislative services agency, and as such is confidential information under the Public Records Act (IC 5-14-3). Subject to rules approved by the legislative council, a public agency may print a paper copy of a map of a state legislative district using the legislative services agency geographic information system. However, electronic copies of this information are available only in accordance with rules approved by the legislative council. (IC 2-5-1.1-7.5 (SEA 204, SEC. 1), eff. May 13, 1999.)

**Local Government Redistricting Ordinances:**

A reference in a local government ordinance to the boundary of a political subdivision, a precinct boundary, or an election district boundary refers to the precinct or boundary as the precinct or boundary existed on the date of adoption of the ordinance. A change in the boundary of a political subdivision, precinct, or election district following the date of adoption does not alter the boundaries of the election districts established by the ordinance. (IC 36-1-6-10 (SEA 109, SEC. 131), eff. May 10, 1999.)

**Third Class City Status:**

A third class city remains a third class city even if the city's population exceeds 35,000, according to a federal decennial census. However, a third class city with that population may adopt an ordinance to assume second class city status. (IC 36-1-4-1.1 (HEA 1513, SEC. 1), eff. July 1, 1999.)

**City and Town Annexations and Disannexations:**

The city clerk (or city or town clerk-treasurer) shall file a copy of each annexation ordinance (against which a remonstrance or appeal has not been filed) with: (1) the circuit court clerk of each county in which the annexed territory is located; (2) the county board of registration (if any) of each county in which the annexed territory is located; (3) the secretary of state; and (4) the county auditor of each county in which the annexed territory is located. A reference in former law to "the state certifying official designated under IC 3-6-4.2-11 [a non-existent citation]" has been repealed. The county auditor shall forward a copy of the annexation ordinance to the: (1) county highway department;

(2) county surveyor; (3) county sheriff of each county in which the annexed territory is located; (4) the township trustee of each township "that lost or gained jurisdiction over the disannexed territory"; and (5) the office of the secretary of state. The county auditor must also notify the office of the secretary of state of the date that an annexation ordinance is effective under state law. References in former law to "the state certifying official designated under IC 3-6-4.2-11 [a non-existent citation]" has been repealed. References in former law to filing copies of the ordinance with "any state agency that has requested copies of disannexations filed with the county auditor" have been repealed. (IC 36-4-3-22 (HEA 1608, SEC. 10) and (SEA 167, SEC. 10), eff. July 1, 1999.)

The clerk of the appropriate court shall certify the judgment of any court disannexing territory from a city or town to: (1) the circuit court clerk; (2) the county election board; and (3) the county auditor of each county in which the disannexed territory is located. The county auditor shall certify the disannexation to the: (1) county highway department of each county in which the disannexed territory is located; (2) county surveyor of each county in which the disannexed territory is located; (3) county sheriff of each county in which the disannexed territory is located; (4) the township trustee of each township "that lost or gained jurisdiction over the disannexed territory"; and (5) the office of the secretary of state. References in former law to "the state certifying official designated under IC 3-6-4.2-11 [a non-existent citation]" has been repealed. References in former law to filing copies of the ordinance with "any state agency that has requested copies of disannexations filed with the county auditor" have been repealed. (IC 36-4-3-19 (HEA 1608, SEC. 9) and (SEA 167, SEC. 9), eff. July 1, 1999.)

## **REGISTRATION**

### **"Full Service" Voter Registration Offices; Restrictions on Partisan Displays and Other Activities:**

An employee or volunteer in a county voter registration office or substation may not: (1) seek to influence an applicant's political preference or party registration; (2) display any political preference or party allegiance, including pictures, photographs, or other likenesses of any currently elected federal, state, county, or local official; (3) make any statement or take any action which has the purpose or effect of discouraging the applicant from registering to vote; or (4) make any statement or take any action which has the purpose or effect of leading an applicant to believe that the decision whether or not to register has any bearing on the availability of services or benefits. (IC 3-7-12-41, 3-7-19-6 (SEA 109, SEC. 20-21), eff. May 10, 1999.)

An employee or volunteer in the office of a city clerk, city clerk-treasurer, or town clerk-treasurer in a town with a population of at least 3,500) is required to provide "full service" voter registration, and may not: (1) seek to influence an applicant's political preference or party registration; (2) display any political preference or party allegiance, including pictures, photographs, or other likenesses of any currently elected federal, state, county, or local official; (3) make any statement or take any action which has the purpose or effect of discouraging the applicant from registering to vote; or (4) make any statement or take any action which has the purpose or effect of leading an applicant to believe that the decision whether or not to register has any bearing on the availability of services or benefits. (IC 3-7-20-7 (SEA 109, SEC. 22), eff. May 10, 1999.)

### **Voter Registration Applications and the Election Division:**

The co-directors of the election division shall (rather than "may" under former law) require a person who requests more than 10,000 registration forms to submit a plan to document the person's need for this number of forms. This requirement does not apply to the state chairman of the Democratic Party, Libertarian Party, or Republican Party. (IC 3-7-22-6 (SEA 109, SEC. 23), eff. May 10, 1999.)

### **Duplicate Voter Registration Elimination Program:**

A voter is classified as an "active voter" *at a specific address* if the voter: (1) registered or voted in an election at that address during the last four years; or (2) has responded in writing to an address confirmation notice sent to that address during the last four years, and within thirty days after receiving the written notice. (IC 3-5-2-1.7 (HEA 1079, SEC. 1), eff. Apr. 23, 1999.)

A county voter registration office must provide the Program contractor with voter registration lists in the format prescribed by the election commission under the statewide voter registration file statute. (IC 3-7-38.1-6, (HEA 1079, SEC. 13), eff. Jan. 1, 1997 [retroactive].)

The postcard to be returned by an individual who appears to be registered at more than one address (or to have moved away from the address where the voter is registered) must request that the voter indicate whether the addresses listed on the postcard are previous addresses for the voter. (IC 3-7-38.1-4 (HEA 1079, SEC. 10), eff. Jan. 1, 1997 [retroactive].)

The former statutory deadlines for: (1) the Program contractor to provide the election division with lists of certain voters; (2) the county voter registration office to place certain voters on inactive status; and (3) the county voter registration office to provide the Program contractor with revised voter lists, have been repealed. These deadlines will now be set by the election division. (IC 3-7-38.1-4, 3-7-38.1-5, and IC 3-7-38.1-6, (HEA 1079, SEC. 10, 12, and 13), eff. Jan. 1, 1997 [retroactive].)

The county voter registration office shall cancel the registration of a voter mailed an address confirmation notice under the Duplicate Voter Registration Program if voter has neither voted at that registration address (nor appeared to vote or correct the registration record). The county voter registration office must cancel this registration thirty days after the second general election after the voter was mailed the address confirmation notice. (IC 3-7-38.1-7 (HEA 1079, SEC. 14), eff. Apr. 23, 1999.)

#### **National Change of Address Program and Other Voter List Maintenance Programs:**

A county voter registration office shall change a voter's registration address based on information received by the county from the NCOA program. The county voter registration office shall send a notice to the registered voter (if the NCOA information provided a forwarding address for the voter) advising the voter that the voter's registration address has been changed by the county voter registration office. If the NCOA information indicates that the voter has moved from the voter's registration address, but no forwarding address is provided, the county voter registration office shall: (1) classify the voter as inactive at that address; and (2) eventually cancel the voter's registration at that address at the same time and in the same manner as other inactive voters. (IC 3-7-38.2-10 (HEA 1079, SEC. 15), eff. Apr. 23, 1999.)

If a voter is identified by the NCOA Program as having moved from the voter's current registration address, the election division (or a contractor acting for the division) must send the voter a postcard request that the voter confirm the voter's current address. If the voter returns the postcard to the county voter registration office not later than 21 days before the next election (*instead of 24 days under former law*), and the postcard has a missing or illegible postmark, then the voter may be required to confirm the voter's address before being permitted to vote at the next election. (IC 3-7-38.2-13 (HEA 1079, SEC. 16), eff. Apr. 23, 1999.)

The county voter registration office shall cancel the registration of a voter mailed an address confirmation notice under the annual residency confirmation and outreach Program if voter has neither voted at that registration address (nor appeared to vote or correct the registration record). The county voter registration office must cancel this registration thirty days after the second general election after the voter was mailed the address confirmation notice. (IC 3-7-38.2-15 and IC 3-7-38.2-17 (HEA 1079, SEC. 17 and 18), eff. Apr. 23, 1999.)

The election division (or a contractor acting for the election division) may obtain a list of Indiana residents identified as deceased by the Social Security Administration. The election division or contractor shall provide each county voter registration office with a report listing all of these individuals shown as registered in the county according to the statewide voter registration file. The county voter registration office shall cancel the registration of these voters unless the county determines that the report is in error in identifying the voter as deceased. The county voter registration office shall note any apparent error in this list on the registration record of the voter, and shall reinstate the voter registration record of any voter whose registration has previously been canceled due to the mistaken belief that the voter is deceased. (IC 3-7-45-6 and IC 3-7-45-7 (HEA 1079, SEC. 19 and 20), eff. Apr. 23, 1999.)

#### **County Voter Registration Records:**

If a county voter registration office purchases new voter registration software from a vendor other than the vendor who supplied the county's current software or who is providing technical assistance to the county, the county voter registration office must send a notice by certified mail to the person who supplied the current software or is providing technical assistance. No later than sixty days after the notice is mailed to the former vendor, that vendor must supply the new vendor with specifications for the current software program. The former vendor is not required to supply proprietary information, but must act in good faith to permit the county voter registration office to install the new software. (IC 3-7-27-23 (SEA 109, SEC. 24), eff. May 10, 1999.)

A county voter registration office's voter registration software computer program must generate a poll list that only includes the names of voters who will be at least eighteen years of age when the election is conducted. (Former law required that notations be made on paper registration records to indicate voters who were under eighteen. The former law requiring the removal of these notations from paper records has been repealed.) (IC 3-7-35-2 and 3-7-35-4 (HEA 1079, SEC. 8 and 73), eff. Apr. 23, 1999.)

A county voter registration office's voter registration software computer program must generate a jury list that only includes the names of voters who will be at least eighteen years of age when a jury is empaneled. (Former law required that notations be made on paper registration records to indicate potential jurors who were under eighteen.) (IC 3-7-35-3 (HEA 1079, SEC. 9), eff. Apr. 23, 1999.)

### **SPECIAL ELECTIONS, SCHOOL BOARD ELECTIONS, AND REFERENDA**

#### **School Board Candidates on Primary Election Ballots:**

An individual may not file both a declaration of candidacy for a primary nomination as well as a declaration of intent to be a write-in candidate for a school board office elected at the primary. (IC 3-8-2-15 (SEA 109, SEC. 31), eff. May 10, 1999.)

#### **School Board Candidates on General Election Ballots:**



A county election board shall print general election ballots so that school board offices to be elected at the general election are placed after the county offices (and any township or town offices) printed on the ballot. (Former law provided that school board candidates elected at the general election were to be printed on the ballot after the public questions concerning judicial retention, the ratification of state constitutional amendments, and the election of any nonpartisan local judicial offices.) School board offices must be placed in a separate column on the ballot or ballot label if a county election board uses paper ballots, ballot cards, or electronic voting systems; school offices must be placed in a separate column of ballot labels if a county election board uses lever voting machines. If a county is using paper ballots or ballot cards, the ballot must also contain a statement reading "To vote for a candidate for this office, making a voting mark on or in the square to the left of the candidate's name." (IC 3-11-2-12.9, 3-11-2-13, and 3-11-2-14 (HEA 1138, SEC. 1-3), eff. Jan. 1, 2000.)

#### **Tie Votes for School Board in Tippecanoe County:**

If a tie vote occurs in an election for a school board in Tippecanoe County, the remaining members of the school board break the tie by majority vote of the remaining school board members, even if those members do not constitute a majority of the school board. If a tie vote occurs when the remaining school board members vote (or if the school board members fail to act within thirty days after the election), the township board of the township in which the greatest percentage of population of the school corporation resides shall break the tie. A member of the township board who was a candidate and involved in the tie vote may not cast a vote to break a tie under this provision. If the members of the township board tie in filling this vacancy, the township trustee breaks the tie and fills the vacancy. (IC 20-4-1-42 (HEA 1079, SEC. 71), eff. Apr. 23, 1999.)

## **VOTING SYSTEMS**

#### **County Tests of Punch Card Ballot Card Voting Systems and Optical Scan Ballot Card Voting Systems:**

A county election board in a county that will be using a punch card ballot card voting system or an optical scan ballot card voting system must conduct a **pretest** of the voting system at least 14 days before election day. The automatic tabulating machine used in the pretest must accurately tabulate votes cast in **all precincts** for all candidates in the election. No later than seven days before election day, the county election board must file a certificate with the election division stating that the pretest has been conducted in accordance with state law. There is no requirement to publish a legal notice of the pretest, and unless a majority of the county election board is present, there is no requirement to post a notice of the pretest under the Open Door Law.

A county election board in a county that will be using a punch card ballot card voting system or an optical scan ballot card voting system must then conduct a **public test** of the voting system at least seven days before election day. The automatic tabulating machine used in the public test must accurately tabulate votes cast in **a sample of the precincts designated by the county election board. However, this sample must include at least one precinct for each election district in which a candidate appears on the ballot.** The current law requiring the publication of a legal notice of the public test and the posting of a notice under the Open Door Law remains in effect. After the public test is completed, the county election board must file a certificate with the election division **immediately** stating that the public test has been conducted in accordance with state law. The current law requiring that the public test be repeated on election night immediately before the start of the official count of the ballots remains in effect. However, only the sample deck used in the earlier public test is required to be used on election night. The certification of this public test is **not** required to be filed with the election division, but must be filed in the county election board's records with the certification of the election returns.

After completing the official count, the county election board shall conduct a **posttest** of the automatic tabulating machine using the same sample used for the public tests. The county election board shall certify that the posttest has been conducted as required by state law, but this certification is only required to be filed with the records of the county election board and not with the election division. (IC 3-11-13-22, 3-11-13-23, 3-11-13-26 (SEA 109, SEC. 81-83), eff. May 10, 1999.)

#### **Canvassing Ballot Card Votes:**

If a voter votes a straight party ticket for more than one political party on a ballot card, the ballot card voting system must consider the whole ballot void, except for any vote for a school board candidate or on a public question. (IC 3-11-7-9 (HEA 1079, SEC. 41), eff. Apr. 23, 1999.)

#### **Certification of Ballot Card and Direct Recording Electronic Voting Systems:**

The census data advisory committee shall study the desirability of permitting absentee ballots to be cast at a county election board office by using a direct recording electronic voting system. The study must include: (1) whether this system can prevent ballots cast by voters who

are subsequently disqualified (by death, for example) from being counted without the loss of the secrecy of the ballot of other voters; and (2) other issues regarding this system which would require the enactment of legislation by the general assembly. (SEA 109, SEC. 141), eff. May 10, 1999.)

Obsolete references to administrative rules to be adopted by the Indiana election commission concerning standards for the marketing and use of ballot card voting systems and direct recording electronic voting systems have been repealed. (These administrative rules were voided by the general assembly and enacted as statutes [Indiana Code 3-11-15] in 1997). (IC 3-11-7-2, 3-11-7-5, 3-11-7-16, 3-11-7-17, 3-11-7.5-3, 3-11-7.5-4, 3-11-7.5-5, 3-11-7.5-7, 3-11-7.5-20, 3-11-7.5-26 (SEA 109, SEC. 68 and 70-78), eff. May 10, 1999.)

A provision requiring the election division to notify "the appropriate county election board" when the Indiana election commission approves a ballot card voting system, has been repealed. (IC 3-11-7-13 (SEA 109, SEC. 134), eff. May 10, 1999.)

A redundant provision concerning error detection and correction methods in ballot card and direct recording electronic voting systems has been repealed. (IC 3-11-15-35 (SEA 109, SEC. 134), eff. May 10, 1999.)

#### **Recertification of Voting Systems Currently Used in Indiana:**

If a voting system vendor applies for recertification of a voting system that: (1) was approved for marketing and use in Indiana before January 1, 1999; and (2) has been tested by an independent testing authority or other entity designated by the commission to determine if the system complies with Indiana statutes setting standards for voting systems, the election commission may approve the application for recertification of the voting system. To approve the recertification under this provision, the commission must find that: (1) none of the counties using the voting system objects to the recertification, following notice of a public hearing on the application; (2) mandating retrofitting of the voting system to comply with statutory standards that have no direct bearing on the ability of the voting system to tabulate votes correctly or to withstand normal usage would result in significant expense to the vendor and county customers; and (3) the voting system substantially complies with Indiana statutes setting standards for the voting system, except for the features requiring retrofitting described above. (HEA 1079, SEC. 74, eff. July 1, 1995 [retroactive].)